

3479200  
John Heckenluth



**BURLINGTON NORTHERN RAILROAD**<sup>361</sup>

LAW DEPARTMENT

1 6132, X

3800 Continental Plaza  
777 Main Street  
Ft. Worth, Texas 76102

817/878-2366

DEC 8 1988 1 40 PM

8-365A016

December 28, 1988

INTERSTATE COMMERCE COMMISSION

Date DEC 30 1988

1 6132

Fee \$ 26.00

BY MESSENGER

ICC Washington, D.C. DEC 8 1988 1 40 PM

INTERSTATE COMMERCE COMMISSION

Secretary  
Interstate Commerce Commission  
Twelfth Street & Constitution Avenue  
Washington, D.C. 20423

TOO OFFICE OF  
STAFF  
DEC 30 1 05 PM '88  
MOTOR OPERATOR

Attn: Ms. Mildred Lee, Room 2303

Re: Documents for Recordation

Dear Ms. Lee:

In accordance with the provisions of Section 11303 of the Interstate Commerce Act, as revised, and Rules and Regulations of the Interstate Commerce Commission ("ICC") thereunder, enclosed herewith for filing and recordation are the following documents:

1. Three (3) executed originals of a Trust Indenture and Security Agreement, a primary document, dated as of December 1, 1988, between Wilmington Trust Company, as trustee (Debtor), whose address is Rodney Square North, Wilmington, Delaware 19890, and Meridian Trust Company (Security Trustee), whose address is 35 North Sixth Street, Reading, Pennsylvania 19601; and

2. Three (3) executed originals of an Equipment Lease, a primary document, dated as of December 1, 1988, between Wilmington Trust Company, as trustee (Lessor), whose address is Rodney Square North, Wilmington, Delaware 19890, and Burlington Northern Railroad Company (Lessee), whose address is 2900 Continental Plaza, 777 Main Street, Fort Worth, Texas 76102.

The railroad equipment covered by the Trust Indenture and Security Agreement and the railroad equipment covered by the Lease are the identical equipment and is described in Exhibit A attached hereto.

*Foster*

*C. [Signature]*

Interstate Commerce Commission  
Page Two

Enclosed is a certified check in the amount of \$26.00 to cover the recordation fee.

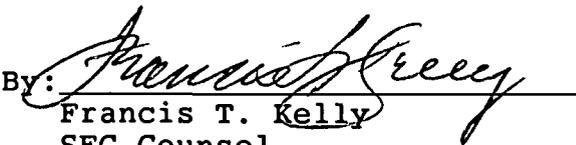
You are hereby authorized to deliver any unneeded copies of the Trust Indenture and Security Agreement and the Equipment Lease, with filing date noted thereon, following recordation thereof, to the representative of Gardner, Carton & Douglas, who is delivering this letter with enclosures to you.

A short summary of the documents to appear in the index follows:

- (a) Trust Indenture and Security Agreement, a primary document, dated as of December 1, 1988, between Wilmington Trust Company, as trustee (Debtor), and Meridian Trust Company (Security Trustee), covering various railroad cars, and
- (b) Equipment Lease, a primary document, dated as of December 1, 1988, between Wilmington Trust Company, as trustee (Lessor), and Burlington Northern Railroad Company (Lessee), covering various railroad cars.

Very truly yours,

BURLINGTON NORTHERN RAILROAD COMPANY

By:   
Francis T. Kelly  
SEC Counsel  
817/878-2366

FTK/ma  
enclosures

EXHIBIT A

DESCRIPTION OF ITEMS OF EQUIPMENT

<u>IDENTIFYING MARKS AND NUMBERS*</u>	<u>NUMBER OF CARS</u>	<u>DESCRIPTION</u>	<u>PURCHASE PRICE EACH</u>
BN376750 through BN376959	210	100-ton High Cube Boxcars	\$58,511.75

---

All Cars Manufactured by Gunderson Inc.

\*All numbers inclusive

**Interstate Commerce Commission**  
Washington, D.C. 20423

12/30/88

OFFICE OF THE SECRETARY

Francis T. Kelly  
SEC Counsel  
Burlington Northern Railroad  
3800 Continental Plaza  
777 Main Street  
FT.Worth,Texas 76102

Dear Sir:

The enclosed document(s) was recorded pursuant to the provisions of Section 11303 of the Interstate Commerce Act, 49 U.S.C. 11303, on 12/30/88 at 1:10pm, and assigned recordation number(s). 16132 & 16132-A

Sincerely yours,

*Nesta R. McLee*

Secretary

Enclosure(s)

1 6132

RECORDATION NO. \_\_\_\_\_ FILED 1988

DEC 30 1988 1 40 PM

EXECUTION COPY

INTERSTATE COMMERCE COMMISSION

---

TRUST INDENTURE AND SECURITY AGREEMENT

Dated as of December 1, 1988

From

WILMINGTON TRUST COMPANY  
Not in its Individual Capacity But  
Solely as Trustee under Trust Agreement  
dated as of December 1, 1988,

DEBTOR

To

MERIDIAN TRUST COMPANY,

SECURITY TRUSTEE

---

[Filed with the Interstate  
Commerce Commission on  
December \_\_, 1988 at \_\_\_\_\_  
\_\_M. and given Recordation  
No. \_\_\_\_\_.]

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Attachments to Trust Indenture-Trust Deed:

- Schedule 1 - Amortization Schedule
- Schedule 2 - Description of Equipment
- Exhibit A - Form of Secured Note

LIST OF DEFINITIONS  
TO TRUST INDENTURE AND MORTGAGE

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Corporate Trust Office	8.4
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Trustor	Introductory Paragraph

## TRUST INDENTURE AND SECURITY AGREEMENT

THIS TRUST INDENTURE AND SECURITY AGREEMENT dated as of December 1, 1988 (as from time to time supplemented or amended in accordance with the applicable provisions of the Operative Agreements, the "Trust Indenture") is from WILMINGTON TRUST COMPANY, a Delaware banking corporation, not in its individual capacity but solely as a Trustee (the "Debtor") under the Trust Agreement dated as of December 1, 1988 (as from time to time supplemented or amended in accordance with the applicable provisions of the Operative Agreements, the "Trust Agreement") for the benefit of First Chicago Leasing Corporation, a Delaware corporation (the "Trustor"), Debtor's address being Rodney Square North, Wilmington, Delaware 19890, to MERIDIAN TRUST COMPANY, a Pennsylvania trust company, (the "Security Trustee"), whose address is 35 North Sixth Street, Reading, Pennsylvania 19601.

### R E C I T A L S:

A. The Debtor and the Security Trustee have entered into a Participation Agreement dated as of December 1, 1988 (as from time to time supplemented or amended in accordance with the applicable provisions of the Operative Agreements, the "Participation Agreement") with Burlington Northern Railroad Company, a Delaware corporation (the "Lessee"), the Trustor and Principal Mutual Life Insurance Company (the "Note Purchaser") providing for the commitment of the Note Purchaser to purchase on certain dates therein provided not later than December 30, 1988, the 10.25% Secured Notes (the "Notes") of the Debtor not exceeding an aggregate principal amount of \$10,824,000 and not less than \$8,856,000. The Notes are to be dated the date of issue, to bear interest from such date at the rate of 10.25% per annum prior to maturity payable semiannually on each May 30 and November 30, commencing May 30, 1989, with the principal of the Notes to be payable in 19 consecutive annual installments, in the amounts set forth on the amortization schedule set forth in Schedule 1 hereto, the first such installment to be paid on May 30, 1990, and the balance to be payable on May 30, 2008; and to be otherwise substantially in the form attached hereto as Exhibit A.

B. The Notes and all principal thereof and interest (and premium, if any) thereon and all additional amounts and other sums at any time due and owing from or required to be paid to the holders of the Notes under the terms of the Notes, this Trust Indenture or the Participation Agreement are hereinafter sometimes referred to as "indebtedness hereby secured".

C. All of the requirements of law relating to the transactions contemplated hereby have been fully complied with and all other acts and things necessary to make this Trust Indenture a valid, binding and legal instrument for the security of the Notes have been done and performed.

SECTION 1. GRANT OF SECURITY.

1.1 Collateral. In order to secure the payment of the principal of and interest on the Notes according to their tenor and effect, and to secure the payment of all other indebtedness hereby secured and the performance and observance of all of the Debtor's covenants and conditions in the Notes and in this Trust Indenture and in the Participation Agreement contained, the Debtor does hereby convey, warrant, mortgage, assign, pledge, transfer and grant to the Security Trustee, its successors in trust and assigns, a security interest in, all and singular of the Debtor's right, title and interest, now existing or hereafter arising, in and to the properties, rights, interests and privileges described in this Section 1.1, subject to the limitations set forth in Section 1.2 hereof; excluding, however, Excepted Rights in Collateral as defined in Section 1.4 hereof (all of which properties hereby mortgaged, assigned and pledged or intended so to be are hereinafter collectively referred to as the "Collateral"):

(a) the railroad equipment described in Schedule 2 attached hereto and made a part hereof (collectively the "Equipment" or "Items of Equipment" and individually an "Item" or "Item of Equipment") constituting the Equipment leased and delivered under that certain Equipment Lease dated as of December 1, 1988 (as from time to time supplemented or amended in accordance with the applicable provisions of the Operative Agreements, the "Lease") between the Debtor, as lessor, and the Lessee, as lessee; together with all accessories, equipment, parts and appurtenances appertaining or attached to any of the Equipment hereinabove described, whether now owned or hereafter acquired, which become the property of the Debtor by the terms of the Lease, and all substitutions, renewals or replacements of and additions, improvements, accessions and accumulations to any and all of said Equipment, which become the property of the Debtor by the terms of the Lease, together with all the rents, issues, income, profits and avails therefrom;

(b) the Lease, all right, title, interest, claims and demands of the Debtor as lessor in, to and under the Lease, including all extensions of the term of the Lease, together with all rights, powers, privileges, options and other benefits of the Debtor as lessor under the Lease, including, without limitation:

(1) the immediate and continuing right to receive and collect all Fixed Rental, Supplemental Rent and Casualty Value payments (as each such term is defined in the Lease), insurance proceeds, condemnation awards and other payments, tenders and security now or hereafter payable to or receivable by the Debtor under the Lease pursuant thereto (except those sums reserved as Excepted Rights in Collateral under Section 1.4 hereof), including, without limitation, all rentals payable in respect of the Equipment under any Permitted Subleases (as defined in the Lease);

(2) the right to make all waivers and agreements and to enter into any amendments relating to the Lease or any provision thereof except with regard to the right of the Debtor to receive those sums reserved as Excepted Rights in Collateral under Section 1.4 hereof; and

(3) the right to take such action upon the occurrence of an Event of Default under the Lease or an event which, with the lapse of time or the giving of notice, or both, would constitute an Event of Default under the Lease, including the commencement, conduct and consummation of legal, administrative or other proceedings, as shall be permitted by the Lease or by law (except as provided in Section 1.2 hereof), and to do any and all other things whatsoever which the Debtor or any lessor is or may be entitled to do under the Lease;

it being the intent and purpose hereof that, subject always to Excepted Rights in Collateral (as defined in Section 1.4 hereof), the assignment and transfer to the Security Trustee of said rights, powers, privileges, options and other benefits shall be effective and operative immediately and shall continue in full force and effect, and the Security Trustee shall have the right to collect and receive all rental and Casualty Value payments, if any, and other sums for application in accordance with the provisions of Section 4 hereof at all times during the period from and after the date of this Trust Indenture until the indebtedness hereby secured has been fully paid and discharged;

(c) except to the extent reserved below, the Purchase Agreement pursuant to which Debtor acquired the Equipment from the Manufacturer, as and to the extent that the same relates to the Equipment and the operation thereof, including, without limitation, (a) all claims for damages in

respect of the Equipment arising as a result of any default by the Manufacturer under the Purchase Agreement, including, without limitation, all warranty, service life policy, performance guarantee and indemnity provisions in the Purchase Agreement in respect of the Equipment and all claims thereunder and (b) any and all rights of the Debtor to compel performance of the terms of the Purchase Agreement in respect of the Equipment; reserving to the Debtor, however, (i) all of Debtor's and/or Lessee's right, title and interest in and to the Purchase Agreement as and to the extent that it relates to any matters not in respect of the Equipment, (ii) all of Debtor's and/or Lessee's rights and interests in or arising out of any payments or deposits made or to be made by Debtor or Lessee or amounts credited or to be credited or paid or to be paid by the Manufacturer to Debtor or Lessee other than in respect of the diminution of the then current fair market value of the Equipment under the Purchase Agreement and (iii) so long, and only so long, as no Event of Default has occurred and is continuing under the Lease, all rights to demand, accept and retain all rights in and to property (other than the Equipment), data and services of any kind which the Manufacturer is obligated to provide or does provide pursuant to the Purchase Agreement with respect to the Equipment;

(d) the Assignment of Warranties as and to the extent that the same relate to the Equipment and the operation thereof, including, without limitation, all claims for damages in respect of the Equipment arising as a result of default by a manufacturer under any warranty provision or otherwise;

(e) each and every Permitted Sublease, all of Debtor's right, title and interest in all rentals now or hereafter payable or receivable pursuant to such and all Permitted Subleases now or hereafter entered into by the Lessee pursuant to Section 17.2 of the Lease and now or hereafter assigned to the Debtor pursuant to Section 19.1 of the Lease, reserving, however, to the Debtor or Lessee, all of Debtor's or Lessee's rights and interest in and to the Permitted Subleases as and to the extent that such rights and interest relate to any matters not in respect of the Equipment;

(f) all monies and securities from time to time deposited or required to be deposited with the Security Trustee pursuant to any terms of this Trust Indenture, the Participation Agreement or the Lease or required hereby or by the Lease to be held by the Security Trustee hereunder as security for the obligations of the Lessee or the Debtor hereunder and under the Lease or the Participation Agreement;

(g) any and all other property of every kind and nature from time to time hereafter, by delivery or by writing of any kind, granted as and for additional security hereunder by the Debtor or by anyone on its behalf to the Security Trustee, subject to the terms thereof; and

(h) all proceeds of the foregoing, of any kind and nature whatsoever, whether cash or otherwise, including, without limitation, all proceeds of proceeds, whether such proceeds are money, accounts, instruments, chattel paper, documents, equipment inventory, farm products, consumer goods, general intangibles, or deposit accounts, and, in any event, shall include, but shall not be limited to, (i) all rents, fees, lease payments and all other amounts due or collected under or in respect of leases, all insurance proceeds of Equipment, all proceeds of the voluntary or involuntary disposition of Equipment or such proceeds, all proceeds of judgments or awards relating to any of the foregoing and all goods, documents, instruments, general intangibles, chattel paper and accounts, wherever located, acquired with the cash proceeds of such Equipment or the proceeds thereof and (ii) any and all payments (in any form whatsoever) made or due and payable to the Debtor, from time to time, in connection with any requisition, confiscation, condemnation, seizure or forfeiture of all or any part of the Collateral by any governmental body, authority, bureau or agency (or any person acting under color of governmental authority).

1.2 Limitations to Security Interest. The security interest granted by Section 1.1 is subject to (a) the right, title and interest of the Lessee in and to the Equipment under the Lease so long as no Event of Default thereunder or any event which with the lapse of time or the giving of notice, or both, would constitute such an Event of Default thereunder shall have occurred and be continuing, (b) the lien of current taxes and assessments not in default (but only if such taxes are entitled to priority as a matter of law), or, if delinquent, the validity of which is being contested in good faith in an appropriate manner or by appropriate proceedings which shall operate during the pendency thereof to prevent the sale, forfeiture or loss of the Collateral or any part thereof, and (c) liens and charges permitted by Section 9 of the Lease (collectively "Permitted Encumbrances").

1.3 Duration of Security Interest. The Security Trustee, its successors in trust and assigns shall have and hold the Collateral forever; provided, however, that such security interest is granted upon the express condition that if the Debtor shall pay all the indebtedness hereby secured and shall observe, keep and perform all the terms and conditions,

covenants and agreements herein and in the Participation Agreement and the Notes contained, then these presents and the estate hereby granted and conveyed shall cease and this Trust Indenture shall become null and void; otherwise to remain in full force and effect until released pursuant to Section 9.6 hereof.

1.4 Excepted Rights in Collateral. There are expressly excepted and reserved from the security interest and operation of this Trust Indenture the following described properties, rights, interests and privileges (hereinafter sometimes referred to as the "Excepted Rights in Collateral") and nothing herein or in any other agreement contained shall constitute an assignment of said Excepted Rights in Collateral to the Security Trustee:

(a) all payments of any indemnity and other amounts payable under Section 7 of the Participation Agreement or repayments of interest thereon under Section 21.2 of the Lease which by the terms of any of such sections of the Lease are payable to the Debtor (in its individual capacity or as trustee) or the Trustor for its own account;

(b) all rights of the Debtor (in its individual capacity or as trustee) and the Trustor under the Lease to demand, collect, sue for or otherwise obtain all amounts from the Lessee due the Debtor (in its individual capacity or as trustee) or the Trustor on account of any such indemnities or payments or other amounts, provided that the rights excepted and reserved by this paragraph (b) shall not be deemed to include the exercise of any remedies provided for in Section 14 of the Lease except those contained in Section 14.2(a) thereof;

(c) all rights, privileges and immunities of the Debtor (in its individual capacity or as trustee) and the Trustor, respectively, in respect of any insurance policies maintained by the Lessee pursuant to Section 11.1 of the Lease, together with any insurance proceeds payable under general public liability policies so maintained, which by the terms of such policies or the terms of the Lease are payable for the benefit of the Debtor (in its individual capacity or as trustee) or the Trustor or directly to the Debtor (in its individual capacity or as trustee) or the Trustor for its own account;

(d) any insurance proceeds payable under insurance policies maintained by the Trustee pursuant to the last paragraph of Section 11.1 of the Lease;

(e) all rights of the Debtor and Trustor to receive notices or copies of notices under the Lease;

(f) all rights of the Debtor and Trustor to inspect the Equipment and Lessee's records pursuant to Section 12.2 of the Lease; and

(g) all rights of Debtor to maintain insurance with respect to its interest in the Equipment at its own expense pursuant to the last paragraph of Section 11.1 of the Lease.

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1.5 Obligations of Debtor. It is expressly agreed that anything herein contained to the contrary notwithstanding, the Debtor shall remain liable under the Lease and the Purchase Agreement to perform all of the obligations assumed by it thereunder, all in accordance with and pursuant to the terms and provisions thereof, and the Security Trustee shall have no obligation or liability under the Lease by reason of or arising out of the assignment hereunder, nor shall the Security Trustee or the holders of the Notes be required or obligated in any manner to perform or fulfill any obligations of the Debtor under or pursuant to the Lease or the Purchase Agreement, or, except as herein expressly provided, to make any payment, or to make any inquiry as to the nature or sufficiency of any payment received by it, or present or file any claim, or take any action to collect or enforce the payment of any amounts which may have been assigned to it or to which it may be entitled at any time or times.

It is understood and agreed by the parties hereto and each holder of the Notes that any and all amounts payable under the Tax Indemnity Agreement dated as of December 1, 1988 between the Trustor and the Lessee in no respect constitute a part or portion of the Collateral.

SECTION 2. COVENANTS AND WARRANTIES OF THE DEBTOR.

The Debtor covenants, warrants and agrees as follows:

2.1 Debtor's Duties. The Debtor covenants and agrees well and truly to perform, abide by and to be governed and restricted by each and all of the terms, provisions, restrictions, covenants and agreements set forth in the Participation Agreement, and in each and every supplement thereto or amendment thereof which may at any time or from time to time be executed and delivered by the parties thereto or their successors and assigns, to the same extent as though each and all of said terms, provisions, restrictions, covenants and agreements were fully set out herein and as though any amendment or supplement to the Participation Agreement were fully set out in an amendment or supplement to this Trust Indenture. The Debtor undertakes to perform only such duties as are expressly and specifically set forth herein and in the other Operative Agreements (as defined in the Participation Agreement) and no implied obligations or covenants shall be read into this Trust Indenture or any other Operative Agreements against the Debtor.

2.2 Warranty of Title. Debtor does hereby warrant and represent that it has not assigned or pledged, and hereby covenants that it will not assign or pledge, so long as the assignment hereunder shall remain in effect, any of its right, title or interest hereby assigned, to anyone other than the Security Trustee. The Debtor has the right, power and authority to grant a security interest in the Collateral to the Security Trustee for the uses and purposes herein set forth. The Debtor, in its individual capacity, agrees that it will not cause or permit to exist any liens or encumbrances on the Collateral arising as a result of (i) any claims against the Debtor in its individual capacity, not related to the transactions contemplated by the Operative Agreements, (ii) any action taken by the Debtor in its individual capacity, not related to the transactions contemplated by the Operative Agreements, or (iii) any failure of the Debtor to take any action required by the Operative Agreements to the extent that such failure to act arises from or constitutes gross negligence or wilful misconduct. The Debtor, in its individual capacity, further agrees, at its own cost and expense, without regard to the provisions of Section 7 hereof, to pay or satisfy and discharge any such liens and encumbrances on the Collateral described in the preceding sentence which are attributable to the Debtor in its individual capacity (except such liens and encumbrances created in favor of the Security Trustee pursuant to the Trust Indenture and except for Permitted Encumbrances), but the Debtor, in its individual capacity, shall not be required to pay or discharge any such claims so long as it shall, in good

faith and by appropriate legal proceedings contest the validity thereof in any reasonable manner which will not affect or endanger the title and interest of the Debtor or the security interest hereunder in and to the Equipment. Without limiting the foregoing, there is no financing statement or other filed or recorded instrument in which the Debtor is named and which the Debtor has signed, as debtor or mortgagor, now on file in any public office covering any of the Collateral excepting the financing statements or other instruments filed or to be filed in respect of and for the security interest provided for herein.

2.3 Further Assurances. The Debtor will, at no expense to the Security Trustee, do, execute, acknowledge and deliver all and every further acts, deeds, conveyances, transfers and assurances necessary or proper or, in the reasonable judgment of the Security Trustee, desirable for the perfection of the security interest being herein provided for in the Collateral, whether now owned or hereafter acquired. Without limiting the foregoing but in furtherance of the security interest herein granted in the rents and other sums due and to become due under the Lease, the Debtor covenants and agrees that it will, pursuant to Section 16 of the Lease, notify the Lessee of the assignment hereunder and direct the Lessee to make all payments of such rents and other sums due and to become due under the Lease, other than Excepted Rights in Collateral, directly to the Security Trustee or as the Security Trustee may direct in writing.

2.4 After-Acquired Property. Any and all property described or referred to in the granting clauses hereof which is hereafter acquired shall ipso facto, and without any further conveyance, assignment or act on the part of the Debtor or the Security Trustee, become and be subject to the security interest herein granted as fully and completely as though specifically described herein, but nothing in this Section 2.4 contained shall be deemed to modify or change the obligation of the Debtor under Section 2.3 hereof.

2.5 Recordation and Filing. The Debtor, upon written request of the Lessee, will fully cooperate with the Lessee in connection with Lessee's obligation pursuant to Section 10 of the Lease to cause this Trust Indenture and all supplements hereto, the Lease and all supplements thereto, and all financing and continuation statements and similar notices required by applicable law, at all times to be kept, recorded and filed at no expense to the Security Trustee in such manner and in such place as may be required by law in order to fully preserve and protect the rights of the Security Trustee hereunder.

2.6 Modifications of Operative Agreements. The Debtor will not, without the prior written consent of the Security Trustee:

(a) declare a default or exercise the remedies of the Debtor, as lessor under the Lease, under, or terminate, modify or accept a surrender of, or offer or agree to any termination, modification or surrender of, the Lease (except as otherwise expressly provided herein) or by affirmative act consent to the creation or existence of any security interest or other lien to secure the payment of indebtedness upon the leasehold estate created by the Lease or any part thereof; provided that the Security Trustee agrees that, so long as no Event of Default shall have occurred and be continuing, all waivers, agreements and amendments relating to the Lease shall require the consent of both the Debtor and the Security Trustee, and neither the Security Trustee nor the Debtor shall so act independently (except that so long as no Event of Default hereunder exists and is continuing, Debtor may, without the consent of the Security Trustee, execute and deliver a Lease Supplement, substantially in the form of Exhibit D to the Lease, as provided in and pursuant to the provisions of Section 2.5 of the Lease);

(b) except in respect of Excepted Rights in Collateral, accept, receive or collect any rental payment under the Lease prior to the date for payment thereof provided for by the Lease or assign, transfer or hypothecate or grant a security interest in (other than to the Security Trustee hereunder) any rent payment then due or to accrue in the future under the Lease in respect of the Equipment;

(c) except in respect of Excepted Rights in Collateral, sell, mortgage, transfer, assign or hypothecate or grant a security interest in (other than to the Security Trustee hereunder) its interest in the Equipment or any part thereof or in any amount to be received by it from the use or disposition of the Equipment; or

(d) except as expressly provided herein, enter into any agreement amending or supplementing any Operative Agreement, execute any waiver or modification of, or consent under any Operative Agreement, settle or compromise any claim arising under any Operative Agreement, or submit or consent to the submission of any dispute, difference or other matter arising under or in respect of any Operative Agreement to arbitration thereunder.

2.7 Power of Attorney in Respect of the Lease. The Debtor does hereby irrevocably constitute and appoint the Security

Trustee its true and lawful attorney with full power of substitution, for it and in its name (or otherwise), place and stead, to ask, demand, collect, receive or receipt for any and all monies and claims for monies due and to become due to the Debtor under the Lease, the Participation Agreement and the Purchase Agreement, including, but not limited to, rents, income and other sums which are assigned under Section 1.1 hereof, and all other property which now or hereafter constitutes part of the Collateral and, subject to Section 5.3 hereof, to sue for, compound and give acquittance for any and all such rents, income and other sums with full power to settle, adjust or compromise any claim thereunder as fully as the Debtor could itself do, and to endorse the name of the Debtor on all checks, commercial paper and other instruments given in payment or in part payment thereof, and in its discretion to file any claim or take any other action or institute any proceedings, either in its own name or in the name of the Debtor or otherwise, which the Security Trustee may deem necessary or appropriate to protect and preserve the right, title and interest of the Security Trustee in and to such monies and claims for monies and the security intended to be afforded hereby.

The Debtor agrees that promptly on receipt thereof, it will transfer to the Security Trustee any and all monies from time to time received by it constituting part of the Collateral, for distribution by the Security Trustee pursuant to this Trust Indenture, except that the Debtor shall accept for distribution pursuant to the Trust Agreement any amounts distributed to it by the Security Trustee under this Trust Indenture.

2.8 Notice of Default. The Debtor further covenants and agrees that it will give the Security Trustee prompt written notice of any event or condition constituting an Event of Default or Casualty Occurrence under the Lease if the Debtor has actual knowledge of such event or condition.

2.9 Payment of Interest. The Debtor hereby agrees to pay, solely from the funds received by the Trustee from the Trustor pursuant to Section 2.8 of the Participation Agreement, to the Security Trustee, not later than noon, New York City time, on May 30, 1989, in immediately available funds, the amount required to be paid to the holders of the Notes as interest on the Notes outstanding on May 30, 1989.

### SECTION 3. POSSESSION, USE AND RELEASE OF PROPERTY.

3.1 Possession of Collateral. While no Event of Default has occurred and is continuing hereunder, the Debtor shall be suffered and permitted to remain in full possession, enjoyment and control of the Equipment and to manage, operate and use the same and each part thereof with the rights and franchises

appertaining thereto, provided, always, that the possession, enjoyment, control and use of the Equipment shall at all times be subject to the observance and performance of the terms of this Trust Indenture. It is expressly understood that the use and possession of the Equipment or any Item thereof by the Lessee under and subject to the Lease or by any sublessee under a Permitted Sublease shall not constitute a violation of this Section 3.1.

3.2 Release of Property. So long as no default referred to in Section 14 of the Lease has occurred and is continuing to the knowledge of the Security Trustee, the Security Trustee shall execute a release in respect of any Item of Equipment designated by the Lessee for settlement pursuant to Section 11 of the Lease upon receipt from the Lessee of written notice designating the Item of Equipment in respect of which the Lease will terminate and the receipt from the Lessee of all sums payable for such Item of Equipment in compliance with Section 11 of the Lease.

3.3 Protection of Purchaser. No purchaser in good faith of property purporting to be released hereunder shall be bound to ascertain the authority of the Security Trustee to execute the release, or to inquire as to any facts required by the provisions hereof for the exercise of such authority; nor shall any purchaser, in good faith, of any Item or unit of the Collateral be under obligation to ascertain or inquire into the conditions upon which any such sale is hereby authorized.

#### SECTION 4. APPLICATION OF ASSIGNED RENTALS AND CERTAIN OTHER MONEYS RECEIVED BY THE SECURITY TRUSTEE.

4.1 Application of Rents and Other Payments. As more fully set forth in Section 1.1 hereof the Debtor has hereby granted to the Security Trustee a security interest in rents, issues, profits, income and other sums due and to become due to the Debtor under the Lease in respect of the Equipment as security for the indebtedness hereby secured. So long as no Event of Default, as defined in Section 5 hereof, has occurred and is continuing:

(a) The amounts from time to time received by the Security Trustee pursuant to Section 2.8 of the Participation Agreement or which constitute payment under the Lease of the installments of Fixed Rental under the Lease shall be applied first, to the payment of the accrued interest on the Notes to the date of such payment (as well as any interest on overdue principal, premium, if any, and to the extent permitted by law, interest and other amounts thereunder), second, to the payment of the unpaid principal of Notes then due thereunder, and third, the balance, if

any, of such amounts shall be paid to or upon the order of the Debtor;

(b) The amounts from time to time received by the Security Trustee which constitute settlement by the Lessee of the "Casualty Value" for any Item of Equipment pursuant to Section 11 of the Lease shall be applied by the Security Trustee as follows:

(i) First, to the payment of an amount equal to the accrued and unpaid interest on that portion of the Notes to be prepaid pursuant to the following subparagraph (ii);

(ii) Second, an amount equal to the Loan Value of such Item of Equipment for which settlement is then being made shall be applied to the prepayment of the Notes so that each of the remaining installments of each Note shall be reduced in the proportion that the principal amount of the prepayment bears to the unpaid principal amount of the Notes immediately prior to the prepayment; and

(iii) Third, the balance, if any, of such amounts held by the Security Trustee after making the applications provided for by the preceding subparagraphs (i) and (ii) shall be released to or upon the order of the Debtor on the date of payment of the amounts provided in the preceding subparagraphs (i) and (ii).

For purposes of this Section 4.1(b) and Section 4.1(c) below, the "Loan Value" in respect of any Item of Equipment shall be an amount equal to the product of (A) a fraction, the numerator of which is an amount equal to the Purchase Price (as defined in the Participation Agreement) of such Item of Equipment for which settlement is then being made and the denominator of which is the aggregate Purchase Price of all Items of Equipment then subject to the Lease (including the Purchase Price of such Item of Equipment for which settlement is then being made), times (B) the unpaid principal amount of the Notes immediately prior to the prepayment provided for in this Section 4.1(b) or Section 4.1(c), as the case may be (after giving effect to all payments of installments of principal made or to be made on the date of prepayment provided for in this Section 4.1(b) or Section 4.1(c), as the case may be);

(c) The amounts received by the Security Trustee from time to time which constitute proceeds of casualty insurance maintained by the Lessee in respect of the Equipment,

shall be held by the Security Trustee as a part of the Collateral and shall be applied by the Security Trustee from time to time to any one or more of the following purposes:

(i) So long as no Event of Default, or any event which, with the lapse of time or the giving of notice, or both, would constitute such an Event of Default, has occurred and is continuing to the knowledge of the Security Trustee, the proceeds of such insurance shall, if the Item of Equipment is to be repaired, be released to the Debtor to reimburse the Lessee for expenditures made for such repair upon receipt by the Security Trustee of a certificate of an authorized officer of the Lessee to the effect that any damage to such Item in respect of which such proceeds were paid has been fully repaired; and

(ii) If the insurance proceeds shall not have been released to the Debtor pursuant to the preceding subparagraph (i) within 120 days from the receipt thereof by the Security Trustee, or if within such period the Lessee shall have notified the Security Trustee in writing that the Lease is to be terminated in respect of such item in accordance with the provisions of Section 11.2 of the Lease, then so long as no Event of Default hereunder has occurred and is continuing to the knowledge of the Security Trustee, the insurance proceeds shall be applied by the Security Trustee as follows:

(A) First, to the prepayment of the Notes, all in the manner and to the extent provided for by clauses First and Second of Section 4.1(b) hereof; and

(B) Second, the balance, if any, of such insurance proceeds held by the Security Trustee after making the applications provided for by the preceding subparagraph (A) shall be released to or upon the order of the Debtor on the date of the payment of the amounts provided in the preceding subparagraph (A).

4.2 Multiple Notes. If more than one Note is outstanding at the time any such application is made, such application shall be made on all outstanding Notes ratably in accordance with the aggregate principal amount remaining unpaid thereon.

4.3 Default. If an Event of Default referred to in Section 5 hereof has occurred and is continuing, all amounts

received by the Security Trustee pursuant to Section 1.1 and 2.9 hereof and any amount received by the Security Trustee pursuant to Section 2.3(c) of the Lease shall be applied in the manner provided for in Section 5 in respect of proceeds and avails of the Collateral.

**SECTION 5. DEFAULTS AND OTHER PROVISIONS.**

5.1 Events of Default. The term "Event of Default" for all purposes of this Trust Indenture shall mean one or more of the following:

(a) Default in payment of an installment of the principal of, or interest on, any Note when and as the same shall become due and payable, whether at the due date thereof or at the date fixed for prepayment or by acceleration or otherwise, and any such default shall continue unremedied for five days;

(b) An Event of Default (as defined in the Lease) shall have occurred and be continuing under the Lease; provided that it shall not constitute an Event of Default hereunder if Lessee is in default of any of its obligations under the Tax Indemnification Agreement or any obligations which constitute Excepted Rights in Collateral, but only so long as the Trustor or the Debtor is not pursuing any remedies against the Lessee other than an action at law for the payment of such amount due;

(c) Default on the part of the Debtor or the Trustor in the due observance or performance of any covenant or agreement to be observed or performed by the Debtor or the Trustor under this Trust Indenture or the Participation Agreement, and such default shall continue unremedied for 30 days after written notice from the Security Trustee to the Debtor or the Trustor, as the case may be, specifying the default and demanding the same to be remedied;

(d) Any representation or warranty on the part of the Debtor or the Trustor made herein or in the Participation Agreement or in any report, certificate, financial or other statement furnished in connection with this Trust Indenture, the Lease or the Participation Agreement, or the transactions contemplated therein, shall prove to have been false or misleading in any material respect when made and shall remain material to the Security Trustee or any holder of the Notes at the time any such person becomes actually aware of such misrepresentation;

(e) The Debtor or the Trustor becomes insolvent or fails generally to pay its debts as such debts become due,

or causes or suffers an order for relief to be entered against it under any applicable federal or state bankruptcy law, or makes an assignment for the benefit of creditors or applies for or consents to the appointment of a custodian, trustee or receiver for the Debtor or the Trustor or for the major part of its property;

(f) A trustee or receiver is appointed for the Debtor or the Trustor or for the major part of its property and is not discharged within 60 days after such appointment; or

(g) Bankruptcy, reorganization, arrangement, insolvency or liquidation proceedings, or other proceedings for relief under any bankruptcy law or similar law for the relief of debtors, are instituted by or against the Debtor or the Trustor and, if instituted against the Debtor or the Trustor, are consented to or are not dismissed within 60 days after such institution.

5.2 Security Trustee's Rights. (a) The Debtor agrees that when any Event of Default as defined in Section 5.1 has occurred and is continuing, but subject always to Section 7 hereof, the Security Trustee shall have the rights, options and remedies of, and be subject to the limitations of, a secured party, and the Debtor shall have the rights, to the extent not waived herein, and duties of a debtor, under the Uniform Commercial Code of Illinois (regardless of whether such Code or a law similar thereto has been enacted in a jurisdiction wherein the rights or remedies are asserted) and without limiting the foregoing, the Security Trustee may exercise any one or more or all, and in any order, of the remedies hereinafter set forth, it being expressly understood that no remedy herein conferred is intended to be exclusive of any other remedy or remedies, but each and every remedy shall be cumulative and shall be in addition to every other remedy given herein or now or hereafter existing at law or in equity or by statute and it being further understood that except as otherwise provided in this Trust Indenture the Security Trustee shall be under no duty to take or refrain from taking any action.

(b) The Security Trustee may, and upon the written request of the holders of at least 15% in principal amount of the Notes then outstanding shall, by notice in writing to the Debtor declare the entire unpaid balance of the Notes to be immediately due and payable; and thereupon all such unpaid balance, together with all accrued interest thereon and all other amounts due thereunder, shall be and become immediately due and payable; subject, however, to the condition that, if at any time after the Notes shall have become so due and payable, and before any judgment or decree for the payment of the money so due, or any thereof, shall be entered, all overdue payments of

interest upon the Notes and all other amounts payable under the Notes (except the principal amount of the Notes which by such declaration shall become payable) shall have been duly paid, and every other default and Event of Default with respect to any covenant or provision of this Trust Indenture shall have been cured, then and in every such case holders of at least 66-2/3% in principal amount of the Notes then outstanding may (but shall not be obligated to), by written instrument filed with the Security Trustee, rescind and annul the Security Trustee's declaration and its consequences; but no such rescission or annulment shall extend to or affect any subsequent default or Event of Default or impair any right consequent thereon.

(c) Subject always to the rights of the Lessee under the Lease, provided the same is not then in default, the Security Trustee personally or by agents or attorneys, shall have the right (subject to compliance with any applicable mandatory legal requirements) to take immediate possession of the Collateral, or any portion thereof, and for that purpose may pursue the same wherever it may be found, and may enter any of the premises of the Debtor, with or without notice, demand, process of law or legal procedure, if this can be done without breach of the peace, and search for, take possession of, remove, keep and store the same, or use and operate or lease the same until sold.

(d) At the request of the Security Trustee, the Debtor shall promptly execute and deliver to the Security Trustee such instruments of title and other documents as the Security Trustee may deem necessary or advisable to enable the Security Trustee or an agent or representative designated by the Security Trustee, at such time or times and place or places as the Security Trustee may specify, to obtain possession of all or any part of the Collateral to which the Security Trustee shall at the time be entitled hereunder. If the Debtor shall for any reason fail to execute and deliver such instruments and documents after such request by the Security Trustee, the Security Trustee may (i) obtain a judgment conferring on the Security Trustee the right to immediate possession and requiring the Debtor to execute and deliver such instruments and documents to the Security Trustee, and (ii) pursue all or part of such Collateral wherever it may be found and, in the event of a default under the Lease, may enter any of the premises of Lessee wherever such Collateral may be or be supposed to be and search for such Collateral and take possession of and remove such Collateral.

(e) Upon every such taking of possession, the Security Trustee may, from time to time, at the expense of the Collateral, make all such expenditures for maintenance, use,

operation, storage, insurance, leasing, control, management, disposition, modifications or alterations to and of the Collateral, as it may deem proper. In each such case, the Security Trustee shall have the right to maintain, use, operate, store, insure, lease, control, manage, dispose of, modify or alter the Collateral and to carry on the business and to exercise all rights and powers of the Debtor relating to the Collateral, as the Security Trustee shall deem best, including the right to enter into any and all such agreements with respect to the maintenance, use, operation, storage, insurance, leasing, control, management, disposition, modification or alteration of the Collateral or any part thereof as the Security Trustee may determine and the Security Trustee shall be entitled to collect and receive directly all tolls, rents, revenues, issues, income, products and profits of the Collateral and every part thereof, without prejudice to the right of the Security Trustee under any provision of this Trust Indenture to collect and receive all cash held by, or required to be deposited with, the Security Trustee hereunder. Such tolls, rents, revenues, issues, income, products and profits shall be applied to pay the expenses of the maintenance, use, operation, storage, insurance, leasing, control, management, disposition, modification or alteration of the Collateral and of conducting the business thereof, and to make all payments which the Security Trustee may be required or may elect to make, if any, for taxes, assessments, insurance or other proper charges upon the Collateral or any part thereof (including the employment of engineers and accountants to examine, inspect and make reports upon the properties and books and records of the Debtor), and all other payments which the Security Trustee may be required or authorized to make under any provision of this Trust Indenture, as well as just and reasonable compensation for the services of the Security Trustee, and of all persons properly engaged and employed by the Security Trustee.

(f) Subject always to the rights of the Lessee under the Lease, provided the same is not then in default, the Security Trustee may, if at the time such action may be lawful and always subject to compliance with any mandatory legal requirements, either with or without taking possession and either before or after taking possession, and without instituting any legal proceedings whatsoever, and having first given notice of such sale by registered mail to the Debtor and the Lessee once at least twenty days prior to the date of such sale, and any other notice which may be required by law, sell and dispose of the Collateral, or any part thereof, free of all rights and claims of the Debtor or the Trustor therein and thereto, by public or private sale, in one lot as an entirety or in separate lots, and either for cash or on credit and on such terms as the Security Trustee may determine, and at any place (whether or not it be the location of the Collateral or

any part thereof) designated in the notice above referred to; provided, however, that any such sale shall be held in a commercially reasonable manner. Any public sale or sales may be adjourned from time to time by announcement at the time and place appointed for such sale or sales, or for any such adjourned sale or sales, without further notice. The Security Trustee or the holder or holders of the Notes, or of any interest therein, may bid and become the purchaser at any such sale;

(g) Subject always to the rights of the Lessee under the Lease, provided the same is not then in default, the Security Trustee may proceed to protect and enforce this Trust Indenture and the Notes by suit or suits or proceedings in equity, at law or in bankruptcy, and whether for the specific performance of any covenant or agreement herein contained or in execution or aid of any power herein granted; or for foreclosure hereunder, or for the appointment of a receiver or receivers for the Collateral or any part thereof, or subject to the provisions of Section 7 hereof, for the recovery of judgment for the indebtedness hereby secured or for the enforcement of any other proper, legal or equitable remedy available under applicable law;

(h) Subject always to the rights of the Lessee under the Lease, provided the same is not then in default, the Security Trustee may proceed to exercise all rights, privileges and remedies of the Debtor under the Lease, except to the extent of Excepted Rights in Collateral, and may exercise all such rights and remedies either in the name of the Security Trustee or in the name of the Debtor for the use and benefit of the Security Trustee; and

(i) Notwithstanding the provisions of this Trust Indenture, including, without limitation, this Section 5.2, the Security Trustee shall not be entitled to exercise any remedy hereunder solely as a result of an Event of Default occurring under Section 5.1(b) hereof unless the Security Trustee shall have declared the Lease to be in default in accordance with Section 14.2 thereof and shall be concurrently exercising, as the Security Trustee deems appropriate, any one or more of the remedies thereunder; provided that the inability of the Security Trustee to exercise any right or remedy under the Lease as a result of any provision of law, any order of any court or governmental agency shall in no event and under no circumstances prevent the Security Trustee from exercising all of its rights, powers and remedies under this Trust Indenture.

### 5.3 Certain Rights of the Debtor on the Occurrence of an Event of Default Under the Lease.

If an Event of Default under the Lease which constitutes an Event of Default hereunder of which the Security Trustee has

knowledge shall have occurred and be continuing, the Security Trustee shall give the Debtor not less than 10 days' prior written notice of the date (the "Enforcement Date") on which the Security Trustee then intends to commence the exercise of any remedy or remedies pursuant to Sections 5.2 or 2.7 hereof. If an Event of Default under the Lease shall have occurred and be continuing, the Debtor shall have the following rights hereunder:

(i) Right to Cure. In the event of the occurrence of an Event of Default in respect of the payment of Fixed Rental under the Lease on the day it becomes due and payable (unless there shall have occurred and be continuing any Event of Default under the Lease other than a failure to pay Fixed Rental and such Event of Default is not then being cured during the period permitted by the next following paragraph), the Debtor may, but shall not be obligated to, prior to the exercise of any remedy or remedies pursuant to Sections 5.2 or 2.7 hereof by the Security Trustee, pay to the Security Trustee an amount equal to any principal and interest (including interest, if any, on overdue payments of principal and interest) then due and payable on the Notes, and such payment by the Debtor shall be deemed to cure any Event of Default under the Lease which would otherwise have arisen on account of the non-payment by the Lessee of such installment of Fixed Rental under the Lease and any Event of Default hereunder attributable thereto; provided, however, that the Debtor may not exercise such right in respect of more than two consecutive Fixed Rental payment defaults or in any event more than a total of four times throughout the term of the Lease.

In the event of the occurrence of an Event of Default in respect of the performance of any covenant contained in the Lease other than the covenant to pay Fixed Rental, the Debtor may, but shall not be obligated to, take such action prior to the exercise of any remedy or remedies pursuant to Sections 5.2 or 2.7 hereof by the Security Trustee as may be necessary to cure such Event of Default under the Lease, and such action by the Debtor shall be deemed to cure any such Event of Default hereunder which would otherwise have arisen on account of such Event of Default under the Lease; provided the right of the Debtor to cure any default in any covenant under the Lease, other than the covenant to pay Fixed Rental, is limited to a period of not more than one year unless the Lessee shall, within such year, resume compliance with such covenant and continue such compliance for a period of

one year, in which case the Debtor may thereafter cure a further such default for a period of not more than one year.

Except as hereinafter in this Section 5.3(i) provided, the Debtor shall not, by exercising the right to cure any such Event of Default, obtain any lien, charge or encumbrance of any kind on any of the Collateral for or on account of costs or expenses incurred in connection with the exercise of such right nor shall any claims of the Debtor against the Lessee or any other party for the repayment of such costs or expenses impair the prior right and security interest of the Security Trustee in and to the Collateral. Upon such payment by the Debtor of the amount of principal and interest then due and payable on the Notes, the Debtor shall be subrogated to the rights of the Security Trustee in respect of the Fixed Rental which was overdue at the time of such payment and interest payable by the Lessee on account of its being overdue, and therefore, if no other Event of Default or event which with the lapse of time or giving of notice, or both, would constitute such an Event of Default shall have occurred and be continuing and if all principal and interest payments due on the Notes have been paid at the time of receipt by the Security Trustee of such Fixed Rental, the Debtor (and not the Security Trustee) shall be entitled to receive such Fixed Rental and such interest upon receipt thereof by the Security Trustee; provided that (1) in the event the principal and interest on the Notes shall have become due and payable pursuant to Section 5.2(a) hereof, such subrogation shall, until principal of and interest on all Notes shall have been paid in full, be subordinate to the rights of the Security Trustee in respect of such payment of Fixed Rental and such interest on such Fixed Rental prior to receipt by the Debtor of any amount pursuant to such subrogation, and (2) the Debtor shall not be entitled to seek to recover any such payment (or any payment in lieu thereof) except pursuant to the foregoing right of subrogation.

(ii) Option to Prepay Notes. If (a) an Event of Default under this Trust Indenture shall have occurred and be continuing and the Security Trustee shall have accelerated the Notes or elected to exercise any of the other remedies specified herein other than exercising only the remedy of a suit against Lessee for specific performance of the Lease or (b) an Event of Default under the Lease shall have occurred and be continuing and the Security Trustee shall not

have exercised any remedy thereunder, whether or not the Debtor shall then have the right to cure an Event of Default under the Lease pursuant to Section 5.3(i) above, the Debtor may, at its option, prepay the Notes by payment of the entire unpaid principal amount thereof, together with accrued interest thereon to the date of prepayment, plus, in the case of a purchase permitted under clause (b) above if such Event of Default shall have occurred less than one year prior to the date of such prepayment, a premium in an amount equal to the Premium Amount (as hereinafter defined). Notwithstanding the provisions of this Section 5.3(ii), the Debtor shall not be entitled to exercise the right to prepay the Notes without payment of a premium in an amount equal to the Premium Amount pursuant to the foregoing sentence unless, immediately following such prepayment the Debtor shall have declared the Lease to be in default in accordance with Section 14.2 thereof and shall be concurrently exercising, as the Debtor deems appropriate, any one or more of the remedies thereunder unless the Debtor shall be unable to exercise any right or remedy under the Lease as a result of any provision of law or any order of any court or governmental agency. For purposes of this Section 5.3(ii), "Premium Amount" shall mean an amount equal to (i) the sum of the amounts representing the present value of the amount of each remaining payment of principal and interest on the Notes which would be required by Section 8.1 absent such prepayment, determined by discounting (on the basis of a 360-day year composed of twelve 30-day months) each such amount by utilizing an interest factor equal to the Reinvestment Yield, less (ii) the principal amount of the Notes outstanding on such date; and "Reinvestment Yield" shall mean the arithmetic mean of the rates, published for the five business days preceding the applicable payment date, in the weekly statistical release designated H.15(519) (or any successor publication) of the Board of Governors of the Federal Reserve System under the caption "U.S. Government Securities--Treasury Constant Maturities" opposite the maturity corresponding to the weighted average life to maturity, rounded to the nearest month, of the principal amount of the Notes to be prepaid, plus 0.50%. If no maturity exactly corresponding to such rounded weighted average life to maturity shall appear therein, yields for the two most closely corresponding published maturities shall be calculated pursuant to the foregoing sentence and the Reinvestment Yield shall be interpolated from such yields on a straight-line basis (rounding in each of such relevant periods, to the nearest month).

5.4 Acceleration Clause. In case of any sale of the Collateral, or of any part thereof, pursuant to any judgment or decree of any court or otherwise in connection with the enforcement of any of the terms of this Trust Indenture, the principal of the Notes, if not previously due, and the interest accrued thereon, shall at once become and be immediately due and payable; also in the case of any such sale, the purchaser or purchasers, for the purpose of making settlement for or payment of the purchase price, shall be entitled to turn in and use the Notes and any claims for interest matured and unpaid thereon, in order that there may be credited as paid on the purchase price the sum apportionable and applicable to the Notes held by such purchaser, including principal and interest thereof, out of the net proceeds of such sale.

5.5 Waiver of Past Defaults. Upon written request of the holders of at least 66-2/3% in principal amount of Notes, the Security Trustee shall waive any past default hereunder and its consequences and upon any such waiver such default shall cease to exist and any Event of Default arising therefrom shall be deemed to have been cured for every purpose of this Trust Indenture, but no such waiver shall extend to any subsequent or other default or impair any right consequent thereon; provided, however, that in the absence of written instructions from the holders of all Notes outstanding the Security Trustee shall not waive any default (i) in the payment of the principal, premium, if any, and interest and other amounts due under any Note then outstanding, or (ii) in respect of a covenant or provision hereof which, under the provisions of this Trust Indenture, cannot be modified or amended without the consent of each holder of the Notes then outstanding.

5.6 Appointment of Receiver. The Security Trustee shall, as a matter of right, be entitled to the appointment of a receiver (who may be the Security Trustee or any successor or nominee thereof) for all or any part of the Collateral, whether such receivership be incidental to a proposed sale of the Collateral or the taking of possession thereof or otherwise, and the Debtor hereby consents to the appointment of such a receiver and will not oppose any such appointment. Any receiver appointed for all or any part of the Collateral shall be entitled to exercise all the rights and powers of the Security Trustee with respect to the Collateral.

5.7 Authorization to Execute Bills of Sale, etc. The Debtor irrevocably appoints the Security Trustee the true and lawful attorney-in-fact of the Debtor in its name and stead and on its behalf, for the purpose of effectuating any sale, assignment, transfer or delivery for the enforcement of the lien of this Trust Indenture, whether pursuant to foreclosure or power of sale, assignments and other instruments as may be

necessary or appropriate, with full power of substitution, the Debtor hereby ratifying and confirming all that such attorney or any substitute shall lawfully do by virtue hereof. Nevertheless, if so requested by the Security Trustee or any purchaser, the Debtor shall ratify and confirm any such sale, assignment, transfer or delivery, by executing and delivering to the Security Trustee or such purchaser all bills of sale, assignments, releases and other proper instruments to effect such ratification and confirmation as may be designated in any such request.

5.8 Waiver by Debtor. To the extent permitted by law, the Debtor covenants that it will not at any time insist upon or plead, or in any manner whatever claim or take any benefit or advantage of, any stay or extension law now or at any time hereafter in force, nor claim, take, nor insist upon any benefit or advantage of or from any law now or hereafter in force providing for the valuation or appraisal of the Collateral or any part thereof prior to any sale or sales thereof to be made pursuant to any provision herein contained, or pursuant to the decree, judgment or order of any court of competent jurisdiction; nor, after such sale or sales, claim or exercise any right under any statute now or hereafter made or enacted by any state or otherwise to redeem the property so sold or any part thereof, and, to the full extent legally permitted, hereby expressly waives for itself and on behalf of each and every person, except decree or judgment creditors of the Debtor acquiring any interest in or title to the Collateral or any part thereof subsequent to the date of this Trust Indenture, all benefit and advantage of any such law or laws, and covenants that it will not invoke or utilize any such law or laws or otherwise hinder, delay or impede the execution of any power herein granted and delegated to the Security Trustee, but will suffer and permit the execution of every such power as though no such power, law or laws had been made or enacted.

5.9 Effect of Sale. Any sale, whether under any power of sale hereby given or by virtue of judicial proceedings, shall operate to divest all right, title, interest, claim and demand whatsoever, either at law or in equity, of the Debtor in and to the property sold, shall be a perpetual bar, both at law and in equity, against the Debtor, its successors and assigns, and against any and all persons claiming the property sold or any part thereof under, by or through the Debtor, its successors or assigns (subject, however, to the then existing rights, if any, of the Lessee under the Lease).

5.10 Application of Sale Proceeds. The proceeds and/or avails of any sale of the Collateral, or any part thereof, and the proceeds and the avails of any remedy hereunder shall be paid to and applied as follows:

(a) First, to the payment of costs and expenses of foreclosure or suit, if any, and of such sale, and of all proper compensation, expenses, liability and advances, including legal expenses and attorneys' fees, owed to or incurred or made hereunder by, the Security Trustee or the holder or holders of the Notes and of all taxes, assessments or liens superior to the lien of these presents, except any taxes, assessments or other superior lien subject to which said sale may have been made;

(b) Second, to the payment of the holder or holders of the Notes of the amount then owing or unpaid on the Notes for principal, interest and premium, if any; and in case such proceeds shall be insufficient to pay in full the whole amount so due, owing or unpaid upon the Notes, then ratably according to the aggregate of such principal and the accrued and unpaid interest and premium, if any, with application on each Note to be made, first, to the unpaid interest thereon, second, to unpaid premium, if any, thereon, and third, to unpaid principal thereof; such application to be made upon presentation of the several Notes, and the notation thereon of the payment, if partially paid, or the surrender and cancellation thereof, if fully paid; and

(c) Third, to the payment of the surplus, if any, to the Debtor, its successors and assigns, or to whomsoever may be lawfully entitled to receive the same.

5.11 Discontinuance of Remedies. In case the Security Trustee shall have proceeded to enforce any right under this Trust Indenture by foreclosure, sale, entry or otherwise, and such proceedings shall have been discontinued or abandoned for any reason or shall have been determined adversely, then and in every such case the Debtor, the Security Trustee and the holder or holders of the Notes shall be restored to their former positions and rights hereunder with respect to the property subject to the security interest created under this Trust Indenture.

5.12 Cumulative Remedies. No delay or omission of the Security Trustee or of the holder of any Note to exercise any right or power arising from any default on the part of the Debtor shall exhaust or impair any such right or power or prevent its exercise during the continuance of such default. No waiver by the Security Trustee or the holder of any Note of any such default, whether such waiver be full or partial, shall extend to or be taken to affect any subsequent default, or to impair the rights resulting therefrom except as may be otherwise provided herein. No remedy hereunder is intended to be exclusive of any other remedy but each and every remedy shall be cumulative and in addition to any and every other remedy

given hereunder or otherwise existing; nor shall the giving, taking or enforcement of any other or additional security, collateral or guaranty for the payment of the indebtedness secured under this Trust Indenture operate to prejudice, waive or affect the security of this Trust Indenture or any rights, powers or remedies hereunder, nor shall the Security Trustee or holder of any of the Notes be required to first look to, enforce or exhaust such other or additional security, collateral or guaranties.

SECTION 6.     THE SECURITY TRUSTEE.

6.1   Certain Duties and Responsibilities of Security Trustee.

(a) The Security Trustee shall not have any duty or obligation to manage, control, use, sell, operate, store, lease, dispose of or otherwise deal with the Equipment or any other part of the Collateral or otherwise to exercise or refrain from taking any action under, or in connection with, the Operative Agreements except as expressly provided herein or as expressly provided by written instructions from the holders of at least 51% in principal amount of the Notes then outstanding; and no implied duties or obligations shall be read into the Operative Agreements against the Security Trustee. In the absence of bad faith on its part, the Security Trustee may conclusively rely, as to the truth of the statements and the correctness of the opinions expressed therein, upon certificates or opinions furnished to the Security Trustee and conforming to the requirements of this Trust Indenture or the Lease; but in the case of any such certificates or opinions which by any provision hereof are specifically required to be furnished to the Security Trustee, the Security Trustee shall be under a duty to examine the same to determine whether or not they conform to the requirements of this Trust Indenture.

(b) In the event the Security Trustee shall have knowledge of an Event of Default, the Security Trustee shall give prompt written notice thereof to the Debtor, the Lessee and each holder of a Note. Subject to the terms of Section 6.1(f) hereof, the Security Trustee shall take such action, or refrain from taking such action, with respect to such Event of Default (including with respect to the exercise of any rights or remedies hereunder) as the Security Trustee shall be instructed in writing by the holders of at least 51% in principal amount of the Notes then outstanding; provided, however, that the Security Trustee may refuse to follow any direction that it believes in good faith to conflict with law. Subject to the provisions of Section 6.1(f), if the Security Trustee shall not have

received instructions as above provided within 20 calendar days after mailing notice of such Event of Default to the holders of the Notes, the Security Trustee may, subject to instructions thereafter received pursuant to the preceding provisions of this Section 6.1(b), take such action, or refrain from taking such action, but shall be under no duty to take or refrain from taking any action, with respect to such Event of Default as it shall determine advisable in the best interests of the holders of the Notes. In the event the Security Trustee shall at any time declare the Lease to be in default pursuant to Section 14 thereof or shall elect to foreclose or otherwise enforce this Trust Indenture, the Security Trustee in its discretion may, or upon receipt of a written demand therefor from the holders of at least 51% in principal amount of the Notes then outstanding shall, declare the entire unpaid balance of the Notes to be immediately due and payable, upon which declaration such unpaid balance, premium, if any, and all accrued interest thereon and all other amounts due thereunder shall immediately become due and payable without further act or notice of any kind. In the event the Security Trustee shall at any time declare the Lease to be in default pursuant to Section 14 thereof or shall elect to foreclose or otherwise enforce this Trust Indenture, the Security Trustee shall forthwith notify the holders of the Notes, the Debtor and the Lessee.

(c) In its exercise of such of the rights and powers vested in it by this Trust Indenture the Security Trustee acts solely as trustee as herein provided and not in any individual capacity. Except as provided in this Section 6 and except for any claim arising as a result of the gross negligence or wilful misconduct of the Security Trustee, all persons having any claim against the Security Trustee arising from matters relating to the transactions contemplated by the Operative Agreements shall look only to the Collateral for payment or satisfaction thereof. The Security Trustee shall not incur any liability hereunder or otherwise in acting upon any notice, certificate or other paper or instrument believed by it in good faith to be genuine and signed by the proper party or parties, or with respect to anything which it may do or refrain from doing in the exercise of its best judgment, or which may seem to it to be necessary or desirable, except liability resulting from its own willful misconduct or gross negligence.

(d) Subject to the terms of Section 6.1(f) hereof, upon the written instructions from the holders of at least 51% in principal amount of the Notes then outstanding, the Security Trustee shall, in addition to such duties as are specifically set forth in this Trust Indenture, give such

notice or direction or exercise such right, remedy or power hereunder as shall be specified in such instructions; provided, however, that the Security Trustee may refuse to follow any direction that it believes in good faith to conflict with law. The Security Trustee shall be entitled to obtain such instructions upon request.

(e) No provision of this Trust Indenture shall be construed to relieve the Security Trustee from liability for its own grossly negligent action, its own grossly negligent failure to act or its own willful misconduct, except that:

(1) this subsection shall not be construed to limit the effect of subsection (a) of this Section;

(2) the Security Trustee shall not be liable for any error of judgment made in good faith by an officer of the Security Trustee unless it shall be proved that the Security Trustee was grossly negligent in ascertaining the pertinent facts; and

(3) the Security Trustee shall not be liable to the holder of any Note or any other person or entity with respect to any action taken or omitted to be taken by it in good faith in accordance with the direction of the holders of at least 51% in principal amount of the Notes then outstanding relating to the time, method and place of conducting any proceeding for any remedy available to the Security Trustee, or exercising any trust or power conferred upon the Security Trustee under this Trust Indenture.

(f) No provision of this Trust Indenture shall require the Security Trustee to expend or risk its own funds or otherwise risk or incur any financial liability in the performance of any of its duties hereunder, or in the exercise of any of its rights or powers, if it shall have reasonable grounds for believing that repayment of such funds or adequate indemnity against such risk or liability is not reasonably assured to it.

(g) Whether or not therein expressly so provided, every provision of this Trust Indenture relating to the conduct or affecting the liability of or affording protection to the Security Trustee shall be subject to the provisions of this Section.

6.2 Certain Limitations on Security Trustee's Rights to Compensation and Indemnification. The Security Trustee agrees that it shall have no right against the holders of any Note for

the payment of compensation for its services hereunder or any expenses or disbursements incurred in connection with the exercise and performance of its powers and duties hereunder or any indemnification against liability which it may incur in the exercise and performance of such powers and duties but, on the contrary, shall look solely to the Debtor and the Lessee for such payment and indemnification except as provided in Section 6.3(g) hereof. The Security Trustee shall have a lien on and a security interest in the Collateral as security for such compensation, expenses, reasonable counsel fees, if any, disbursements, indemnification and other amounts due and payable to it pursuant to the Operative Agreements; provided, however, that the Security Trustee agrees that it will not take any action with respect to the Collateral except at the direction of the holders of 51% in principal amount of the Notes then outstanding.

### 6.3 Certain Rights of Security Trustee.

(a) The Security Trustee shall not be responsible for any recitals herein or in the Participation Agreement or for insuring the Equipment, or for paying or discharging any tax, assessment, governmental charge or lien affecting the Collateral, or for the recording, filing or refileing of this Trust Indenture, or of any amendment or supplement thereto or further mortgage or trust, nor shall the Security Trustee be bound to ascertain or inquire as to the performance or observance of any covenants, conditions or agreements contained herein or in the Participation Agreement, and, except in the case of a default in the payment of the principal of, or interest or premium, if any, on any Note or a default of which the Security Trustee has actual knowledge, the Security Trustee shall be deemed to have knowledge of any default in the performance or observance of any such covenants, conditions or agreements only upon receipt of written notice thereof from one of the holders of the Notes. The Security Trustee shall notify each holder of a Note and the Lessee, within three days of the date such payment was due, of any default by the Lessee in any payment of Fixed Rental due under the Lease. The Security Trustee shall promptly notify the Debtor and all holders of the Notes of any default of which the Security Trustee has actual knowledge. Upon receipt by the Security Trustee of such written notice from a holder of a Note, the Security Trustee shall promptly notify the Debtor and all other holders of the Notes of such notice and the default referred to therein in the manner and at their addresses set forth in Section 9.3 hereof. For all purposes of this Agreement, in the absence of actual knowledge on the part of an officer or employee in its Corporate Trust Department, the Security Trustee shall not be deemed to have knowledge of any default hereunder unless notified in writing by the Debtor, the Lessee or any holder of the Notes.

(b) Except as set forth in Section 3.6 of the Participation Agreement, the Security Trustee makes no representation or warranty as to the validity, sufficiency or enforceability of this Trust Indenture, the Notes, the Participation Agreement or any instrument included in the Collateral, or as to the value, title, condition, fitness for use of, or otherwise with respect to, any Equipment or Item of Equipment or any substitute therefor. The Security Trustee shall not be accountable to anyone for the use or application of any of the Notes or the proceeds thereof or for the use or application of any property or the proceeds thereof which shall be released from the lien and security interest hereof in accordance with the provisions of this Trust Indenture.

(c) The Security Trustee may rely and shall be protected in acting or refraining from acting upon any resolution, certificate, statement, instrument, opinion, report, notice, request, direction, consent, order, bond, note or other paper or document believed by it in good faith to be genuine and to have been signed or presented by the proper party or parties.

(d) Any request, direction or authorization by the Debtor or the Lessee shall be sufficiently evidenced by a request, direction or authorization in writing, delivered to the Security Trustee, and signed in the name of the Debtor or the Lessee, as the case may be, by its Chairman of the Board, President, any Vice President, Treasurer or Secretary, and any resolution of the Board of Directors of the Debtor or the Lessee shall be sufficiently evidenced by a copy of such resolution certified by its Secretary or an Assistant Secretary to have been duly adopted and to be in full force and effect on the date of such certification, and delivered to the Security Trustee.

(e) Whenever in the administration of the trust herein provided for, the Security Trustee shall deem it necessary or desirable that a matter be proved or established prior to taking, suffering or omitting any action hereunder, such matter (unless other evidence in respect thereof be herein specifically prescribed) may be deemed to be conclusively proved and established by a certificate purporting to be signed by the Chairman of the Board, the President, any Vice President, the Treasurer or the Secretary of the Debtor or the Lessee, as the case may be, and delivered to the Security Trustee, and such certificate shall fully warrant the matters set forth therein to the Security Trustee or any other person, and shall constitute, unless the Security Trustee or such other person has actual knowledge to the contrary, full protection to the Security Trustee or such other person for any action taken, suffered or omitted on the faith thereof, but in its discretion the Security Trustee may accept, in lieu thereof, other evidence of

such fact or matter or may require such further or additional evidence as it may deem reasonable.

(f) The Security Trustee may consult with counsel, appraisers, engineers, accountants and other skilled persons to be selected by the Security Trustee, and the written advice of any thereof shall be full and complete authorization and protection in respect of any action taken, suffered or omitted by it hereunder in good faith and in reliance thereon.

(g) The Security Trustee shall be under no obligation to take any action to protect, preserve or enforce any rights or interests in the Collateral or to take any action towards the execution or enforcement of the trusts hereunder or otherwise to exercise or refrain from taking any action under the Operative Agreements (except the giving of notice of any Event of Default), whether on its own motion or on the request of any other person, which in the opinion of the Security Trustee may involve loss, liability, fees, cost or expense, unless the Security Trustee shall have been provided with security or indemnity reasonably satisfactory to the Security Trustee acting in good faith against any loss, liability, fee, cost or expense, including reasonable attorneys' fees, in connection therewith.

(h) The Security Trustee shall not be liable to the holder of any Note for any action taken or omitted by it in good faith and believed by it in good faith to be authorized or within the discretion or rights or powers conferred upon it by this Trust Indenture.

(i) The Security Trustee shall not be bound to make any investigation into the facts or matters stated in any resolution, certificate, statement, instrument, opinion, report, notice, request, direction, consent, order, bond, note or other paper or document, unless requested in writing to do so by the holders of not less than a majority in principal amount of the Notes then outstanding.

(j) The Security Trustee may execute any of the trusts or powers hereunder or perform any duties hereunder either directly or by or through agents or attorneys and the Security Trustee shall not be responsible for any action or inaction on the part of any agent or attorney appointed by it with due care.

(k) Except to the extent specifically provided for in this Trust Indenture, in the event of any dispute with respect to the delivery or ownership or right to possession of funds or documents at any time held by the Security Trustee hereunder, or with respect to title to any of the Equipment, the Security Trustee is hereby authorized and directed to retain, without

liability to anyone, all or any of such funds or documents and title to such of the Equipment until such dispute shall have been settled either by agreement of the parties or by final order, decree or judgment of a court of competent jurisdiction. During any such dispute, the Security Trustee will invest any funds held by it subject to the dispute in such investments as shall be specified by the holders of not less than 51% in aggregate principal amount of the Notes then outstanding.

6.4 Showings Deemed Necessary by Security Trustee. Notwithstanding anything elsewhere in this Trust Indenture contained, the Security Trustee shall have the right, but shall not be required, to demand in respect of withdrawal of any cash, the release of any property, the subjection of any after-acquired property to the lien of this Trust Indenture, or any other matter whatsoever within the purview hereof, any showings, certificates, opinions, appraisals or other information deemed necessary or appropriate by the Security Trustee acting in good faith in addition to the matters by the terms hereof required as a condition precedent to such action or matter.

6.5 Status of Moneys Received. All moneys received by the Security Trustee shall, until used or applied as herein provided, be held in trust for the purposes for which they were received, but need not be segregated in any manner from any other moneys, except to the extent required by law, and may be deposited by the Security Trustee under such general conditions as may be prescribed by law in the Security Trustee's general banking department, and the Security Trustee shall be under no liability for interest on any moneys received by it hereunder. The Security Trustee and any affiliated corporation may become the owner of any Note secured hereby and be interested in any financial transaction with the Debtor or the Trustor or any affiliated corporation or the Lessee or any affiliated corporation, or the Security Trustee may act as depository or otherwise in respect to other securities of the Debtor or the Trustor or any affiliated corporation or the Lessee or any affiliated corporation, all with the same rights which it would have if not the Security Trustee. The Security Trustee agrees that, whenever it shall be required to disburse moneys to the Debtor or the Trustor or any holder of the Notes under the provisions hereof, it shall do so by wire transfer of immediately available funds to a designated bank or trust company located in the continental United States whenever such method of payment is provided for in Schedule 1 or Schedule 2 to the Participation Agreement or is requested in writing by the Debtor or the Trustor or any holder of the Notes.

6.6 Resignation of Security Trustee. The Security Trustee may resign and be discharged of the trusts hereby created by

mailing notice specifying the date when such resignation shall take effect to the Debtor and to the holders of the Notes in the manner and at their addresses set forth in Section 9.3 hereof. Such resignation shall take effect on the date specified in such notice (being not less than thirty days after the mailing of such notice) unless previously a successor security trustee shall have been appointed as hereinafter provided, in which event such resignation shall take effect immediately upon the appointment of such successor; provided, however, no such resignation shall be effective unless and until a successor security trustee shall have been appointed and accepted such appointment in accordance with the provisions of Sections 6.9 and 6.12 hereof.

6.7 Removal of Security Trustee. The Security Trustee may be removed and/or a successor security trustee may be appointed at any time by an instrument or concurrent instruments in writing signed and acknowledged by the holders of 66-2/3% in principal amount of the Notes and delivered to the Security Trustee and to the Debtor and, in the case of the appointment of a successor security trustee, to such successor security trustee.

6.8 Successor Security Trustee. Each security trustee appointed in succession of the Security Trustee named in this Trust Indenture, or its successor in trust, shall be a trust company or banking corporation in good standing and having a capital and surplus aggregating at least \$100,000,000.

6.9 Appointment of Successor Security Trustee. If the Security Trustee shall have given notice of resignation to the Debtor pursuant to Section 6.6 hereof or, if notice of removal shall have been given to the Security Trustee and the Debtor pursuant to Section 6.7 hereof, which notice does not appoint a successor security trustee, a successor security trustee may be appointed by the Debtor, or, if such successor security trustee shall not have been so appointed or shall not have accepted such appointment within fifteen calendar days after the giving of such notice of resignation or the giving of any such notice of removal, as the case may be, a successor security trustee may be appointed by the Debtor, the holder of any outstanding Note or, upon application of the retiring security trustee, by any court of competent jurisdiction.

6.10 Merger or Consolidation of Security Trustee. Any company into which the Security Trustee, or any successor to it in the trust created by this Trust Indenture, may be merged or with which it or any successor to it may be consolidated or any company resulting from any merger or consolidation to which the Security Trustee or any successor to it shall be a party (provided such company shall be a corporation organized under the laws of the United States of America or of a state thereof,

having a capital and surplus of at least \$100,000,000 or, in the case of any company into which Meridian Trust Company is merged or with which Meridian Trust Company may be consolidated or resulting from any merger or consolidation to which Meridian Trust Company shall be a party, such company shall be a corporation organized under the laws of the United States of America or of a state thereof, having a capital and surplus of, or an irrevocable unconditional guaranty from an affiliate having capital and surplus of, at least \$100,000,000), shall be the successor to the Security Trustee under this Trust Indenture without the execution or filing of any paper or any further act on the part of any of the parties hereto. The Debtor covenants that in case of any such merger or consolidation it will cooperate with the Lessee in connection with the Lessee's obligation pursuant to Section 10.1 of the Lease to cause to be executed, acknowledged, recorded, and/or filed suitable instruments in writing to confirm the estates, rights and interests of such corporation as security trustee under this Trust Indenture.

6.11 Conveyance Upon Request of Successor Security Trustee. If any deed, conveyance or instrument in writing from the Debtor is required by any successor security trustee for more fully and certainly vesting in and confirming to such new security trustee such estates, rights, powers and duties, then upon request any and all such deeds, conveyances and instruments in writing shall be made, executed, acknowledged and delivered, and Debtor shall cooperate with the Lessee in connection with the Lessee's obligation pursuant to Section 10.1 of the Lease to cause the same to be recorded and/or filed.

6.12 Acceptance of Appointment by Successor Security Trustee. Any new security trustee appointed pursuant to any of the provisions hereof shall execute, acknowledge and deliver to the Debtor an instrument accepting such appointment, and thereupon such new security trustee, without any further act, deed or conveyance, shall become vested with all the estates, properties, rights, powers and trusts of its predecessor in the rights hereunder with like effect as if originally named as security trustee herein; but nevertheless, upon the written request of the Debtor or of the successor security trustee, the security trustee ceasing to act shall execute and deliver an instrument transferring to such successor security trustee, upon the trusts herein expressed, all the estates, properties, rights, powers and trusts of the security trustee so ceasing to act, and shall duly assign, transfer and deliver any of the property and moneys held by such security trustee to the successor security trustee so appointed in its or his place.

SECTION 7. LIMITATIONS OF LIABILITY.

It is expressly understood and agreed by and between the Debtor, the Trustor, the Security Trustee and their respective successors and assigns that, except as expressly provided in Section 2.2 hereof, this Trust Indenture is executed by Wilmington Trust Company, not in its individual capacity or personally but solely as Trustee under the Trust Agreement in the exercise of the power and authority conferred and vested in it as such Trustee, that each and all of the representations, undertakings and agreements herein made on the part of the Debtor are each and every one of them made and intended not as personal representations, undertakings and agreements by Wilmington Trust Company or the Trustor, or for the purpose or with the intention of binding Wilmington Trust Company, in its individual capacity or personally, or the Trustor but are made and intended for the purpose of binding only the Trust Estate as defined in the Trust Agreement, that this Trust Indenture is executed and delivered by Wilmington Trust Company solely in the exercise of the powers expressly conferred upon Wilmington Trust Company as Trustee under the Trust Agreement, that actions to be taken by the Debtor pursuant to its obligations hereunder may, in certain instances, be taken by the Debtor only upon specific authority of the Trustor, that nothing herein contained shall be construed as creating any liability on Wilmington Trust Company, in its individual capacity or personally, the Trustor (except to the extent provided in Section 2.8 of the Participation Agreement) or any incorporator or any past, present or future subscriber to the capital stock of, or stockholder, officer or director of, Wilmington Trust Company or the Trustor, to perform any covenant either express or implied contained herein, all such liability, if any, being expressly waived by the Security Trustee and by any person claiming by, through or under the Security Trustee, and that so far as the Debtor, in its individual capacity or personally, or the Trustor are concerned, the Security Trustee and any person claiming by, through or under the Security Trustee shall look solely to the Collateral for the payment of any obligation under any of the instruments referred to herein; provided, however, that except as herein provided, nothing in this Section 7 shall be construed to limit or otherwise modify the rights and remedies of the Security Trustee and the holders of the Notes contained in Section 5 hereof, provided, further, that nothing contained in this Section 7 shall be construed to limit the liability of the Trustor or of the Debtor, in its individual capacity, or constitute a covenant not to sue the Trustor or the Debtor, in its individual capacity, for any breach by it of any representations, warranties or covenants of the Trustor or of the Debtor expressly made in its individual capacity, respectively, contained in the Operative Agreements or to limit the liability of the Debtor for gross negligence or willful

misconduct or the failure to exercise due care in the handling of funds and provided further that nothing in this paragraph shall be construed to limit the obligations of the Trustor pursuant to Section 2.8 of the Participation Agreement. Any obligation of the Debtor hereunder may be performed by the Trustor and any such performance shall not be construed as revocation of the trust created by the Trust Agreement. Nothing contained in this Trust Indenture shall restrict the operation of the provisions of the Trust Agreement with respect to its revocation or the resignation or removal of the Trustee thereunder.

## SECTION 8. THE NOTES.

8.1 Issuance and Terms of Notes. On each Closing Date, there shall be issued to the Note Purchaser two Notes dated such Closing Date, and payable to the Note Purchaser, each in an original principal amount as specified on Schedule 2 to the Participation Agreement and in an aggregate principal amount equal to the amount to be paid to the Trustee by the Note Purchaser as determined under Section 2.2 of the Participation Agreement.

Each Note shall bear interest at an interest rate equal to 10.25% per annum (calculated on the basis of a year of 360 days comprised of twelve 30-day months) on the unpaid principal amount thereof from time to time outstanding, payable in arrears on each May 30 and November 30, commencing May 30, 1989 to and including May 30, 2009. The principal amount of each Note shall be payable on the dates and in the installments in accordance with the amortization schedule set forth in Annex A to such Note. Each Note shall bear interest at the rate of 12.25% (calculated on the basis of a year of 360 days and the actual number of days elapsed) on any part of the principal, premium, if any, and, to the extent permitted by applicable law, interest and any other amounts payable thereunder not paid when due for any period during which the same shall be overdue. Notwithstanding anything to the contrary contained herein, if any date on which a payment under any Note becomes due and payable is not a business day then such payment shall not be made on such scheduled date but shall be made on the next succeeding business day and if such payment is made on such next succeeding business day, no interest shall accrue on the amount of such payment during such extension.

8.2 Registration and Execution. The Notes shall be registered as to principal and interest. The Notes shall be signed on behalf of the Debtor by its President, any Vice President or other authorized officer. Notes bearing the signatures of individuals who were at any time the proper officers of the Debtor shall bind the Debtor, notwithstanding that such

individuals or any of them have ceased to hold such offices prior to the authentication and delivery of such Notes or did not hold such offices at the respective dates of such Notes. The Debtor may from time to time execute and deliver Notes to the Security Trustee for authentication upon original issue and such Notes shall thereupon be authenticated and delivered by the Security Trustee upon the written request of the Debtor signed by the President or a Vice President or other authorized officer of the Debtor, provided that each such request shall specify the aggregate principal amount of all Notes to be authenticated hereunder on original issue. Each Note shall be dated the date of its authentication, which shall be the Closing Date in the case of the original issuance of Notes. No Note shall be secured by or entitled to any benefit under this Trust Indenture or be valid or obligatory for any purposes, unless there appears on such Note a certificate of authentication in the form provided for herein executed by the Security Trustee by the manual signature of one of its authorized officers and such certificate upon any Note shall be conclusive evidence, and the only evidence, that such Note has been duly authenticated and delivered hereunder.

### 8.3 Payment of the Notes.

(a) The principal of, and premium, if any, and interest on the Notes shall be payable by wire transfer of immediately available funds, in the case of any original Note Purchaser, as provided in or pursuant to the Participation Agreement or as such Note Purchaser shall otherwise designate in the continental United States, and in the case of all other holders of the Notes, to such bank or trust company in the continental United States for the account of such holder as the holder shall designate to the Debtor from time to time in writing, and if no such designation is in effect, by check, duly mailed, by first class, postage prepaid, or delivered to such holder at its address appearing on the Register as defined in Section 8.4. All payments so made shall be valid and effectual to satisfy and discharge the liability upon such Note to the extent of the sums so paid. Each holder (or the person for whom such holder is a nominee) by its acceptance of any Note agrees that, before selling, transferring or otherwise disposing of such Note, it will present such Note to the Debtor for transfer and notation as provided in Sections 8.4 and 8.5.

(b) All amounts constituting payment of the installments of Fixed Rental under the Lease or Casualty Value received by the Security Trustee and applied on the Notes pursuant to Section 4 hereof shall be valid and effectual to satisfy and discharge the liability upon such Notes to the extent of the amounts so received and applied.

(c) Without impairing any of the other rights, powers, privileges, liens or security interests of the holders of the Notes under this Trust Indenture, each holder of a Note, by its acceptance of a Note, agrees that as between each of them and the Debtor, except as expressly provided in this Trust Indenture, the Participation Agreement or any other Operative Agreement, (i) the obligation to make all payments of principal, premium, if any, and interest on the Notes shall be payable only from the payments made by the Debtor pursuant to Section 2.9 hereof and the income and proceeds from the Collateral and (ii) except as provided in Section 2.8 of the Participation Agreement (in the case of the Trustor), none of the Debtor, in its individual capacity, the Trustor, and the Security Trustee and any officer, director, trustee, servant or director or indirect parent or controlling person or persons of any of them shall have any personal liability for any amounts payable under the Notes. Nothing in this Section 8.3 shall release the Trustor from personal liability, or constitute a covenant not to sue the Trustor in its individual capacity, for any breach by it of any representation or warranty or of its covenants contained in the Participation Agreement or for any of the payments it has agreed to make pursuant to the Participation Agreement. In addition, nothing in this Section 8.3 shall release the Debtor, in its capacity as trustee under the Trust Agreement or in its individual capacity, as the case may be, from personal liability, or constitute a covenant not to sue the Debtor in its capacity as trustee or in its individual capacity, as the case may be, for any breach by it of any representations, warranties or covenants of the Debtor in its capacity as Debtor or in its individual capacity, as the case may be, contained in the Operative Agreements.

8.4 The Register. The Security Trustee shall keep at 35 North Sixth Street, Reading, Pennsylvania 19601 (the "Corporate Trust Office") a register for the registration and transfer of Notes (herein called the "Register"). The names and addresses of the holders of the Notes, the transfers of the Notes and the names and addresses of the transferees of all Notes shall be registered in the Register, with the copies to be provided to the Debtor by the Security Trustee upon the request of the Debtor. The Debtor hereby appoints the Security Trustee as its agent to hold the Register and to register Notes and the transfer of Notes.

8.5 Transfers and Exchanges of Notes; Lost or Mutilated Notes.

(a) The holder of any Note may transfer such Note upon the surrender thereof at the Corporate Trust office of

the Security Trustee. Thereupon, the Debtor shall execute, and the Security Trustee shall authenticate and deliver, in the name of the transferee a new Note or Notes in denominations not less than \$250,000 in aggregate principal amount equal to the unpaid principal amount of the Note so surrendered.

(b) The holder of any Note or Notes may surrender such Note or Notes at the Corporate Trust office of the Security Trustee, accompanied by a written request for a new Note or Notes in the same aggregate principal amount as the then unpaid principal amount of the Note or Notes so surrendered and in denominations of \$250,000 or such amount in excess thereof as may be specified in such request. Thereupon, the Debtor shall execute, and the Security Trustee shall authenticate and deliver, in the name of such holder a new Note or Notes in the denomination or denominations so requested (but not less than \$250,000) and in the aggregate principal amount equal to the aggregate unpaid principal amount of the Note or Notes so surrendered.

(c) All Notes presented or surrendered for exchange or transfer shall (if so required by the Debtor) be duly endorsed or be accompanied by a written instrument or instruments of assignment or transfer, in form satisfactory to the Debtor and to the Security Trustee, duly executed by the registered holder or by its attorney duly authorized in writing. The Security Trustee shall not be required to make a transfer or an exchange of any Note for a period of ten days preceding any installment payment date with respect thereto. The Security Trustee may absolutely rely on any signature purporting to be correct and shall have no duty of inquiry upon any such presentation or surrender of Notes for exchange or transfer.

(d) In case any Note shall become mutilated or be destroyed, lost or stolen, the Debtor, upon the written request of the holder thereof, shall execute, and the Security Trustee shall authenticate and deliver, a new Note in exchange and substitution for the mutilated Note, or in lieu of and in substitution for the Note so destroyed, lost or stolen. The applicant for a substituted Note shall furnish to the Debtor and the Security Trustee such security or indemnity as may be required by the Debtor or the Security Trustee to save it harmless from all risks, and the applicant shall also furnish to the Debtor evidence to its satisfaction of the mutilation, destruction, loss or theft of the applicant's Note and of the ownership thereof. In case any Note which has matured or is about to mature shall become mutilated or be destroyed, lost or stolen, the Debtor may, instead of issuing a substituted Note,

pay or authorize the payment of the same (without surrender thereof except in the case of a mutilated Note), if the applicant for such payment shall furnish to the Debtor and the Security Trustee such security or indemnity as the Debtor or the Security Trustee may require to save it harmless, and shall furnish evidence to the satisfaction of the Debtor of the mutilation, destruction, loss or theft of such Note and the ownership thereof. If any institutional holder of a Note, or its nominee, is the owner of any such lost, stolen or destroyed Note, then the affidavit of the president, vice president, treasurer or assistant treasurer of such Note Purchaser setting forth the fact of loss, theft or destruction and of its ownership of the Note at the time of such loss, theft or destruction shall be accepted as satisfactory evidence thereof and no indemnity shall be required as a condition to execution and delivery of a new Note other than the written agreement of such institutional holder to indemnify the Debtor or the Security Trustee for any claims or action against it (and for its attorney's fees) resulting from the issuance of such new Note or the reappearance of the old Note. The Debtor shall advise the Security Trustee when any new Note is issued pursuant to this Section 8.5(d) as to the details relating to such issuance.

#### 8.6 The New Notes.

(a) Each new Note (herein, in this Section 8.6, called a "New Note") issued pursuant to Section 8.5 in exchange for or in substitution or in lieu of an outstanding Note (herein, in this Section 8.6, called an "Old Note") shall be dated the date of such Old Note. The Security Trustee shall mark on each New Note (i) the dates to which principal and interest have been paid on such Old Note, (ii) all payments and prepayments of principal previously made on such Old Note which are allocable to such New Note, and (iii) the amount of each installment payment payable on such New Note. Each installment payment payable on such New Note on any date shall bear the same proportion to the installment payment payable on such Old Note on such date as the original principal amount of such New Note bears to the original aggregate principal amount of such Old Note. Interest shall be deemed to have been paid on such New Note to the date on which interest shall have been paid on such Old Note, and all payments and prepayments of principal marked on such New Note, as provided in clause (ii) above, shall be deemed to have been made thereon.

(b) Upon the issuance of a New Note pursuant to Section 8.5, the Security Trustee may require the payment of a sum to reimburse it for, or to provide it with funds

for, the payment of any tax or other governmental charge or any other charges and expenses connected therewith which are paid or payable by the Debtor.

(c) All New Notes issued pursuant to Section 8.5 in exchange for or in substitution or in lieu of Old Notes shall be valid obligations of the Debtor evidencing the same debt as the Old Notes and shall be entitled to the benefits and security of this Trust Indenture to the same extent as the Old Notes.

(d) Upon the issuance of any Note pursuant to this Trust Indenture, the Security Trustee may submit to the Trustor a request that the Trustor prepare and deliver to the Security Trustee an amortization schedule with respect to such Note setting forth the amount of the installment payments to be made on such Note after the date of issuance thereof and the unpaid principal balance of such Note after each such installment payment. The Security Trustee shall deliver, or send by first-class mail, postage prepaid, one copy of the applicable schedule to the holder of such Note at its address set forth in the Register.

8.7 Cancellation of Notes. All Notes surrendered to the Security Trustee for the purpose of payment, redemption, transfer or exchange shall be cancelled by it, and no Notes shall be issued in lieu thereof except as expressly required or permitted by any of the provisions of this Trust Indenture.

8.8 Registered Owner. The person in whose name any Note shall be registered shall be deemed and treated as the owner thereof for all purposes of this Trust Indenture and neither the Debtor nor the Security Trustee shall be affected by any notice to the contrary. Payment of or on account of the principal of, premium, if any, and interest on such Note shall be made only to or upon the order in writing of such registered owner. For the purpose of any request, direction or consent hereunder, the Debtor and the Security Trustee may deem and treat the registered owner of any Note as the owner thereof without production of such Note.

## SECTION 9. MISCELLANEOUS.

9.1 Successors and Assigns. Whenever any of the parties hereto is referred to, such reference shall be deemed to include the successors and assigns of such party; and all the covenants, promises and agreements in this Trust Indenture contained by or on behalf of the Debtor or by or on behalf of the Security Trustee, shall bind and inure to the benefit of the respective successors and assigns of such parties whether so expressed or not.

9.2 Partial Invalidity. The unenforceability or invalidity of any provision or provisions of this Trust Indenture shall not render any other provision herein contained unenforceable or invalid, provided that nothing contained in this Section 9.2 shall be construed to be in derogation of any rights or immunities of the Debtor in its individual capacity or of the Trustor under Section 7 hereof, or to amend or modify any limitations or restrictions of the Security Trustee or the holder of any Note or their respective successors or assigns under said Section 7.

9.3 Communications. All communications provided for herein shall be in writing and shall be deemed to have been given (unless otherwise required by the specific provisions hereof in respect of any matter) when delivered personally or otherwise actually received or five business days after being deposited in the United States mail, certified or registered, postage prepaid, addressed as follows:

If to the Debtor:                   Wilmington Trust Company  
Rodney Square North  
Wilmington, Delaware 19890

Attention: Corporate Trust  
Administration

(with a copy of such communication  
to the Trustor)

If to the Trustor:                   First Chicago Leasing Corporation  
One First National Plaza  
Suite 0502  
Chicago, Illinois 60670-0502

Attention: Vice President  
(1988 Burlington Northern Lease)

If to the Security  
Trustee:                               Meridian Trust Company  
35 North Sixth Street  
Reading, Pennsylvania 19601

Attention: Corporate Trust  
Department

If to any  
holder of Notes:                   At its address for notices set  
forth in the Register

or to any such party at such other address as such party may designate by notice duly given in accordance with this Section to the other parties.

#### 9.4 Supplemental Trust Indentures; Waivers.

(a) Supplemental Trust Indentures Without Noteholders' Consent. The Debtor and the Security Trustee from time to time and at any time, subject to the restrictions in this Trust Indenture contained, may enter into an agreement or agreements supplemental hereto and which thereafter shall form a part hereof for any one or more of the following purposes:

(i) to add to the covenants and agreements to be observed by, and to surrender any right or power reserved to or conferred upon the Debtor;

(ii) to subject to the security interest of this Trust Indenture additional property hereafter acquired by the Debtor and intended to be subjected to the security interest of this Trust Indenture, and to correct and amplify the description of any property subject to the security interest of this Trust Indenture; or

(iii) to permit the qualification of this Trust Indenture under the Trust Indenture Act of 1939, as amended, or any similar Federal statute hereafter in effect, except that nothing herein contained shall permit or authorize the inclusion of the provisions referred to in Section 316(a)(2) of said Trust Indenture Act of 1939 or any corresponding provision in any similar Federal statute hereafter in effect;

and the Debtor covenants to perform all requirements of any such supplemental agreement. No restriction or obligation imposed upon the Debtor may, except as otherwise provided in this Trust Indenture, be waived or modified by such supplemental agreements, or otherwise.

(b) Waivers and Consents by Noteholders; Supplemental Deeds of Trust with Noteholders' Consent. Upon the waiver or consent of the holders of at least 66-2/3% in aggregate principal amount of the Notes exclusive of any Notes held by the Trustor, the Debtor, or the Lessee or any of their respective affiliates (x) the Debtor may take any action prohibited, or omit the taking of any action required, by any of the provisions of this Trust Indenture or any agreement supplemental hereto, or (y) the Debtor and the Security Trustee may enter into an agreement or agreements

supplemental hereto for the purpose of adding, changing or eliminating any provisions of this Trust Indenture or of any agreement supplemental hereto or modifying in any manner the rights and obligations of the holders of the Notes and the Debtor; provided, that no such waiver or supplemental agreement shall (i) impair or affect the right of any holder to receive payments or prepayments of the principal of and payments of the interest or premium, if any, on its Note, as therein and herein provided, without the consent of such holder, (ii) permit the creation of any lien or security interest with respect to any of the Collateral, without the consent of the holders of all the Notes at the time outstanding, (iii) effect the deprivation of the holder of any Note of the benefit of the security interest of this Trust Indenture upon all or any part of the Collateral without the consent of such holder, (iv) reduce the aforesaid percentage of the aggregate principal amount of Notes, the holders of which are required to consent to any such waiver or supplemental agreement pursuant to this Section, without the consent of the holders of all of the Notes at the time outstanding, or (v) modify the rights, duties or immunities of the Security Trustee, without the consent of the holders of all of the Notes at the time outstanding.

(c) Notice of Supplemental Deeds of Trust. Promptly after the execution by the Debtor and the Security Trustee of any supplemental agreement pursuant to the provisions of paragraph (a) or (b) of this Section, the Security Trustee shall give written notice, setting forth in general terms the substance of such supplemental agreement, together with a conformed copy thereof, mailed, first-class, postage prepaid, to each holder of the Notes. Any failure of the Security Trustee to give such notice, or any defect therein, shall not, however, in any way impair or affect the validity of any such supplemental agreement.

(d) Opinion of Counsel Conclusive as to Supplemental Deeds of Trust. The Security Trustee is hereby authorized to join with the Debtor in the execution of any such supplemental agreement authorized or permitted by the terms of this Trust Indenture and to make the further agreements and stipulations which may be therein contained, and the Security Trustee may receive an opinion of counsel as conclusive evidence that any supplemental agreement executed pursuant to the provisions of this Section 9.4 complies with the requirements of this Section 9.4.

9.5 Amendments. Subject to Section 9.4, this Trust Indenture may, from time to time and at any time, be amended or supplemented by an instrument or instruments in writing executed by the parties hereto.

9.6 Release. The Security Trustee shall release the security interest granted hereby by proper instrument or instruments upon presentation of satisfactory evidence that all indebtedness secured hereby has been fully paid or discharged, provided that the obligations of the Debtor hereunder shall not be released thereby. Upon payment of all indebtedness secured hereby, the Security Trustee shall deliver notice to the Debtor of the release.

9.7 Governing Law. This Trust Indenture and the Notes shall be construed in accordance with and governed by the laws of the State of Illinois without regard to principles of conflicts of law; provided, however, that the Security Trustee shall be entitled to all the rights conferred by any applicable Federal statute, rule or regulation.

9.8 Counterparts. This Trust Indenture may be executed, acknowledged and delivered in any number of counterparts, each of such counterparts constituting an original but all together only one Trust Indenture.

9.9 Headings. Any headings or captions preceding the text of the several sections hereof, the Table of Contents and the List of Definitions are intended solely for convenience of reference and shall not constitute a part of this Trust Indenture nor shall they affect its meaning, construction or effect.

9.10 Definitions. All capitalized terms used herein which are not defined herein shall have the meanings ascribed thereto in the Lease and/or the Participation Agreement.

IN WITNESS WHEREOF, the Debtor has caused this Trust Indenture to be executed as of the day and year first above written.

Wilmington Trust Company, not in its individual capacity but solely as Trustee under a Trust Agreement dated as of December 1, 1988

By Mary Ann Guit  
Its A.V.P.

[CORPORATE SEAL]

ATTEST:

Charles Smith  
Its Financial Services Off  
+ Asst Sec

Meridian Trust Company,  
as Security Trustee

By \_\_\_\_\_  
Its \_\_\_\_\_

[CORPORATE SEAL]

ATTEST:

Its \_\_\_\_\_

4409W

IN WITNESS WHEREOF, the Debtor has caused this Trust Indenture to be executed as of the day and year first above written.

Wilmington Trust Company, not in its individual capacity but solely as Trustee under a Trust Agreement dated as of December 1, 1988

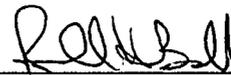
By \_\_\_\_\_  
Its \_\_\_\_\_

[CORPORATE SEAL]

ATTEST:

\_\_\_\_\_  
Its \_\_\_\_\_

Meridian Trust Company,  
as Security Trustee

By   
Its **VICE PRESIDENT**

[CORPORATE SEAL]

ATTEST:

  
Its **ACCOUNT OFFICER**

4409W

STATE OF DELAWARE )  
COUNTY OF NEWCASTLE ) SS

On this 29th day of December, 1988, before me personally appeared Mary Ann Rich and PAULA G. SMITH, to me personally known, who being by me duly sworn, say that they are a A. U. P. and ASSISTANT SECRETARY, respectively, of Wilmington Trust Company, that one of the seals affixed to the foregoing instrument is the corporate seal of said corporation, that said instrument was signed on behalf of said corporation by authority of its Board of Directors; and they acknowledged that the execution of the foregoing instrument was the free act and deed of said corporation.



Notary Public

NOTARY PUBLIC

My Commission Expires June 15, 1989

(SEAL)

My commission expires: \_\_\_\_\_

STATE OF \_\_\_\_\_ )  
COUNTY OF \_\_\_\_\_ ) SS

On this \_\_\_\_\_ day of December, 1988, before me personally appeared \_\_\_\_\_ and \_\_\_\_\_ to me personally known, who being by me duly sworn, say that they are a \_\_\_\_\_ and \_\_\_\_\_, respectively, of Meridian Trust Company, that one of the seals affixed to the foregoing instrument is the corporate seal of said corporation, that said instrument was signed on behalf of said corporation by authority of its Board of Directors; and they acknowledged that the execution of the foregoing instrument was the free act and deed of said corporation.

\_\_\_\_\_  
Notary Public

(SEAL)

My commission expires: \_\_\_\_\_



AMORTIZATION SCHEDULE

(Payments Required Expressed as Percentages of the  
Purchase Price of the Equipment of \$12,287,467.50)

<u>Date</u>	<u>Principal Repayment</u>	<u>Interest</u>	<u>Debt Service</u>	<u>Balance</u>
12/29/ 1988	.000000	.000000	.000000	77.133493
5/30/ 1989	.000000	3.316205	3.316205	77.133493
11/30/ 1989	.000000	3.953092	3.953092	77.133493
5/30/ 1990	1.405181	3.953092	5.358273	75.728312
11/30/ 1990	.000000	3.881076	3.881076	75.728312
5/30/ 1991	1.549212	3.881076	5.430288	74.179100
11/30/ 1991	.000000	3.801679	3.801679	74.179100
5/30/ 1992	1.708006	3.801679	5.509685	72.471094
11/30/ 1992	.000000	3.714144	3.714144	72.471094
5/30/ 1993	1.883077	3.714144	5.597221	70.588017
11/30/ 1993	.000000	3.617636	3.617636	70.588017
5/30/ 1994	2.076092	3.617636	5.693728	68.511925
11/30/ 1994	.000000	3.511236	3.511236	68.511925
5/30/ 1995	2.288892	3.511236	5.800128	66.223033
11/30/ 1995	.000000	3.393930	3.393930	66.223033
5/30/ 1996	2.523503	3.393930	5.917433	63.699530
11/30/ 1996	.000000	3.264601	3.264601	63.699530
5/30/ 1997	2.235195	3.264601	5.499796	61.464335
11/30/ 1997	.000000	3.150047	3.150047	61.464335
5/30/ 1998	1.940332	3.150047	5.090379	59.524003
11/30/ 1998	.000000	3.050605	3.050605	59.524003
5/30/ 1999	2.000107	3.050605	5.050712	57.523896
11/30/ 1999	.000000	2.948100	2.948100	57.523896
5/30/ 2000	3.832742	2.948100	6.780842	53.691154
11/30/ 2000	.000000	2.751672	2.751672	53.691154
5/30/ 2001	3.749910	2.751672	6.501582	49.941244
11/30/ 2001	.000000	2.559489	2.559489	49.941244
5/30/ 2002	3.987490	2.559489	6.546979	45.953754
11/30/ 2002	.000000	2.355130	2.355130	45.953754
5/30/ 2003	4.245936	2.355130	6.601066	41.707818
11/30/ 2003	.000000	2.137526	2.137526	41.707818
5/30/ 2004	5.105429	2.137526	7.242955	36.602389
11/30/ 2004	.000000	1.875872	1.875872	36.602389
5/30/ 2005	7.552636	1.875872	9.428508	29.049753
11/30/ 2005	.000000	1.488800	1.488800	29.049753
5/30/ 2006	8.400658	1.488800	9.889458	20.649095
11/30/ 2006	.000000	1.058266	1.058266	20.649095
5/30/ 2007	9.261725	1.058266	10.319991	11.387370
11/30/ 2007	.000000	.583603	.583603	11.387370
5/30/ 2008	10.211052	.583603	10.794655	1.176318
11/30/ 2008	.000000	.060286	.060286	1.176318
5/30/ 2009	1.176318	.060286	1.236604	.000000
	77.133493	109.629785	186.763278	

SCHEDULE 1  
(to Trust Indenture)

DESCRIPTION OF ITEMS OF EQUIPMENT

<u>IDENTIFYING MARKS AND NUMBERS*</u>	<u>NUMBER OF CARS</u>	<u>DESCRIPTION</u>	<u>PURCHASE PRICE EACH</u>	<u>TOTAL PURCHASE PRICE</u>
BN376750 through BN376959	210	100-ton High Cube Boxcars	\$58,511.75	\$12,287,467.50

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All Cars manufactured by Gunderson, Inc.  
\*All numbers inclusive

SCHEDULE 2  
(to Trust Indenture)

THIS NOTE HAS NOT BEEN REGISTERED PURSUANT TO THE SECURITIES ACT OF 1933, AS AMENDED, OR PURSUANT TO THE SECURITIES LAWS OF ANY STATE. ACCORDINGLY, THIS NOTE MAY NOT BE SOLD UNLESS EITHER REGISTERED UNDER SAID ACT AND SUCH APPLICABLE STATE LAWS OR UNLESS AN EXEMPTION FROM SUCH REGISTRATION IS AVAILABLE.

WILMINGTON TRUST COMPANY,  
not individually but solely  
as Trustee under a Trust Agreement  
dated as of December 1, 1988  
10.25% SECURED NOTE  
(NON-RECOURSE)

No.

\$

December \_\_, 1988

FOR VALUE RECEIVED, the undersigned, WILMINGTON TRUST COMPANY, a Delaware banking company, not in its individual capacity but solely as trustee (the "Debtor") under that certain Trust Agreement dated as of December 1, 1988 (the "Trust Agreement") between it and FIRST CHICAGO LEASING CORPORATION (the "Trustor"), promises to pay to

or registered assigns,  
the principal sum of

DOLLARS (\$ \_\_\_\_\_)

together with interest from the date hereof until maturity at the rate of 10.25% per annum (computed on the basis of a 360-day year of twelve consecutive 30-day months) on the unpaid principal hereof. Accrued but unpaid interest shall be due and payable on each May 30 and November 30, commencing May 30, 1989.

The principal of the Note shall be payable in installments on the dates and in the amounts set forth on Annex A hereto. The final payment of this Note shall be made on May 30, 2009 and shall be in an amount sufficient to discharge in full the unpaid principal of and all accrued but unpaid interest on, and any other amounts due under, this Note. If any date on which a payment under any Note becomes due and payable is not a business day then such payment shall not be made on such scheduled date but shall be made on the next succeeding business day and if such payment is made on the next succeeding business day, no interest shall accrue on the amount of such payment during such extension.

This Note shall bear interest on overdue principal and (to the extent legally enforceable) on overdue interest at the rate of 12.25% per annum. The principal hereof [, premium, if any,] and

EXHIBIT A  
(to Trust Indenture)

interest hereon are payable to the registered holder hereof in such coin or currency of the United States of America which at the time of payment shall be legal tender for the payment of public and private debts, in immediately available funds.

This Note is one of the 10.25% Secured Notes of the Trustee not exceeding \$10,824,000 in aggregate principal amount (the "Notes") which is issued pursuant to the Participation Agreement dated as of December 1, 1988 among the Debtor, the Trustor, Burlington Northern Railroad Company (the "Lessee"), Meridian Trust Company, as security trustee (the "Security Trustee") and Principal Mutual Life Insurance Company, as note purchaser, and which is also issued under and equally and ratably with such other Notes secured by that certain Trust Indenture dated as of December 1, 1988 (as from time to time amended and supplemented, the "Trust Indenture") from the Debtor to the Security Trustee.

Certain prepayments are required to be made on this Note and any other Notes outstanding under the Trust Indenture. The Debtor agrees to make the required prepayments on the Notes in accordance with the provisions of the Trust Indenture.

The provisions of this Note are subject to the Trust Indenture. Reference is hereby made to the Trust Indenture for a complete statement of the rights and obligations of the holder of, and the nature and extent of the security for, this Note and the rights and obligations of the holders of, and the nature and extent of the security for, any other Note executed and delivered under the Trust Indenture, as well as for a statement of the terms and conditions of the trust created by the Trust Indenture, to all of which terms and conditions in the Trust Indenture each holder hereof agrees by its acceptance of this Note. The terms and provisions of the Trust Indenture and the rights and obligations of the Security Trustee and the rights of the holders of the Notes may be changed and modified to the extent permitted by and as provided in the Trust Indenture.

This Note is a registered Note and is transferable only by surrender thereof at the Corporate Trust Office of the Security Trustee, or the office of any successor, in the manner provided in the Trust Indenture. Prior to due presentment for registration of transfer of this Note, the Security Trustee may treat the person in whose name this Note is registered as the owner hereof for all purposes whether or not this Note be overdue.

This Note and the Trust Indenture are governed by and construed in accordance with the laws of the State of Illinois.

It is expressly understood and agreed by and between the Debtor, the Trustor and the holder of this Note and their respective successors and assigns that this Note is executed by Wilmington

Trust Company, not in its individual capacity or personally but solely as Trustee under the Trust Agreement in the exercise of the power and authority conferred and vested in it as such Trustee, that each and all of the representations, undertakings and agreements herein made on the part of the Debtor are each and every one of them made and intended not as personal representations, undertakings and agreements by Wilmington Trust Company or the Trustor, or for the purpose or with the intention of binding Wilmington Trust Company, in its individual capacity or personally, or Trustor but are made and intended for the purpose of binding only the Trust Estate as defined in the Trust Agreement, that this Note is executed and delivered by Wilmington Trust Company solely in the exercise of the powers expressly conferred upon Wilmington Trust Company as Trustee under the Trust Agreement, that nothing herein contained shall be construed as creating any liability on Wilmington Trust Company, in its individual capacity or personally, the Trustor (except to the extent provided in Section 2.8 of the Participation Agreement) or any incorporator or any past, present or future subscriber to the capital stock of, or stockholder, officer or director of, Wilmington Trust Company or the Trustor, to perform any covenant either express or implied contained herein, all such liability, if any, being expressly waived by the holder of this Note and by each and every person now or hereafter claiming by, through or under the holder of this Note, and that so far as Wilmington Trust Company, in its individual capacity or personally, or the Trustor are concerned, the holder of this Note and any person claiming by, through or under the holder of this Note shall look solely to the Collateral as defined in the Trust Indenture for the performance of any obligation under this Note, provided, however, that except as herein provided, nothing in this paragraph shall be construed to limit or otherwise modify the rights and remedies of the holder of this Note contained in Section 5 of the Trust Indenture, provided, further, that nothing contained in this paragraph shall be construed to limit the liability of the Trustor or of the Debtor, in its individual capacity, or constitute a covenant not to sue the Trustor or the Debtor, in its individual capacity, for any breach by it of any representations, warranties or covenants of the Trustor or the Debtor, expressly made in its individual capacity, respectively, contained in the Operative Agreements or to limit the liability of the Debtor for gross negligence or willful misconduct or the failure to exercise due care in the handling of funds and provided further that nothing contained in this paragraph shall be construed to limit the obligations of the Trustor pursuant to Section 2.8 of the Participation Agreement. Any obligation of the Debtor hereunder may be performed by the Trustor and any such performance shall not be construed as revocation of the trust created by the Trust Agreement. Nothing contained in this Note shall restrict the operation of the provisions of the Trust Agreement with respect to its revocation or the resignation or removal of the Debtor as Trustee hereunder.

Unless the certificate of authentication hereon has been executed by or on behalf of the Security Trustee by manual signature, this Note shall not be entitled to any benefit under the Trust Indenture or be valid or obligatory for any purpose.

IN WITNESS WHEREOF, the Debtor has caused this Note to be duly executed in its corporate name by its officer duly authorized on the date hereof.

WILMINGTON TRUST COMPANY, not in its individual capacity but solely as Trustee under a Trust Agreement dated as of December 1, 1988

By \_\_\_\_\_  
Its \_\_\_\_\_

CERTIFICATE OF AUTHENTICATION

This is one of the Notes referred to in the within-mentioned Trust Indenture.

MERIDIAN TRUST COMPANY, not in its individual capacity but solely as trustee under a Trust Indenture and Security Agreement as of December 1, 1988

By \_\_\_\_\_  
Its \_\_\_\_\_